

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 03.11.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. No.7536 of 2013

K.Sellathurai

.. Petitioner

- Vs -

1.The District Collector
Salem District.

2.The Commissioner,
Kollimalai Panchayat Union

3.The Secretary to Government,
Rural Development & Panchayat Raj Dept.
Government of Tamil Nadu
Secretariat, Chennai.
(Suo Motu impleaded as 3rd respondent
vide order of even date)

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, to direct the respondent to regularise the services of the petitioner as a sanitary worker on and from 25.08.1992 together with all consequential benefits.

For Petitioner : Mr.V.Lakshminarayanan

For Respondents : Mr.S.Thangavel, Spl. G.P.

ORDER

This writ petition was filed by the petitioner, to direct the respondent to regularise the services of the petitioner as a sanitary worker on and from 25.08.1992 together with all consequential benefits.

2. The brief facts of the case is that the petitioner was temporarily appointed as Masalchi on consolidated pay in the year 1984 under the control of second respondent's Panchayat Union. The grievance of the petitioner is that though he has been serving without any break in service, his services were not regularised by the respondent despite the fact that there

are vacancies. In order to have his services regularised, he made representations to the 2nd respondent repeatedly, however the respondents ignored his long service for over 29 uninterrupted years, which was prompted him to file this petition with the above said prayer.

3. Though very many grounds have been raised in the affidavit filed in support of the plea, learned counsel appearing for the petitioner submitted that the services of similarly situated persons working as Masalchi in Panrutti Panchayat Union, Cuddalore had been regularised pursuant to the order of this Court in W.P.10560/2012, 10561/2012 dated 18.04.2012, however the petitioner's case was not considered for regularisation, which is wholly unsustainable. Accordingly he prays this Court for allowing the petition.

4. On the above contention, this Court heard the learned Special Government Pleader appearing for respondent who on the basis of the counter affidavit filed on behalf of respondents contented that as per G.O.Ms.No.878, Rural Development & Local Administration Department dated 15.05.1981, there was a ban for all temporary appointments in the Panchayat Union Offices, since the Masalchi post has not been sanctioned by the Government in the Kolli Hills Panchayat Union Office and, therefore, the respondents were not in a position to regularize the petitioner's temporary appointment and not in a position to give the permanent job to the petitioner. However, after the filing of the present writ petition, the first respondent has called for proposal to regularise the services of the petitioner vide his letter dated 13.03.2013 and subsequently the 2nd respondent has submitted the proposal to the first respondent vide his letter dated 11.06.2015. The said proposal has to be considered by the Secretary to Government, Rural Development & Panchayat Raj Department for bringing the petitioner into regular time scale of pay. However the petitioner has not included the Secretary to Government, Rural Development & Panchayat Raj Department as necessary party in this petition. However, this Court may direct the Secretary to Government, Rural Development & Panchayat Raj Dept., Government of Tamil Nadu to pass orders on the proposal within a particular time frame stipulated by this Court.

5. The facts in the present case is not disputed. It is fairly submitted by the learned Special Government Pleader that the Secretary to Government, Rural Development and Panchayat Raj Department, Chennai, is the appropriate authority to pass orders on the proposal forwarded by the 1st respondent. Therefore, this Court deems it fit and proper to implead the Secretary to Government, Rural Development and Panchayat Raj Department, Chennai, as party third respondent to the present petition.

Registry is directed to make appropriate amendment to the cause title. Learned Special Government Pleader accepts notice on behalf of the 3rd respondent.

6. Since it is an admitted fact that regularisation proposal has been forwarded by the 1st respondent to the Secretary to Government, Rural Development and Panchayat Raj Department, Chennai and the same is pending approval, this Court, without going into the merits of the issue, directs the Secretary to Government, Rural Development and Panchayat Raj Department, Government of Tamil Nadu, Chennai, to pass appropriate orders on the proposal forwarded by the 1st respondent for regularisation of the services of the petitioner, within a period of 12 weeks from the date of receipt of copy of this order in accordance with law.

7. With the above direction, this Writ Petition is disposed of. In the circumstances there shall be no order as to costs.

-sd-

Assistant Registrar (CS)

//True copy//

Sub Assistant Registrar

jrs

To

1. The District Collector
Salem District.

2. The Commissioner,
Kollimalai Panchayat Union

3. The Secretary to Government,
Rural Development & Panchayat Raj
Department
Government of Tamil Nadu
Secretariat, Chennai.

+1 C.C. to MR.V.Raghavachari Advocate SR.NO. 35558

+1 C.C. to The Government Pleader High Court Madras
SR.NO. 35656

W.P. NO.7536/2013

UM (CO)

VS 19.12.2020