

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2020

CORAM

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. 48463 of 2006
(O.A.No.4800 of 2001)

D.S.Ampujam

...Petitioner

Versus

1. The Director of Rural Development
Panagal Buildings, Saidapet, Chennai-600 015.
2. The District Collector
Kanyakumari District at Nagercoil.
3. The Block Development Officer (Panchayats)
Panchayat Union Munchirai,
Munchirai.

...Respondents

PRAYER: Originally this petition has been filed as Original Application No.4800 of 2001 before the Tamil Nadu Administrative Tribunal at Chennai and after abolition of TNAT, petition has been transferred and numbered as W.P.No.48463 of 2006.

Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus seeking for direction to the respondent to regularise the service of the petitioner in the post of Water Supply Assistant in the regular time scale of pay w.e.f 17.5.2000 and grant all consequential benefits both service and monetary.

For Petitioner : Mr.L.Chandrakumar
For Respondents : Mr.P.Chinnadurai
Additional Government Pleader

O R D E R

The petitioner was working as Water Supply Assistant, Munchirai. Initially she was appointed on 17.5.2000 and she was

working for one year they are not regularized him. They have to file Original Application before the Administrative Tribunal in O.A.No.4800/2001 seeking the relief of directing the respondent to regularise the service of the petitioner in the post of Water Supply Assistant in the regular time scale of pay from 17.5.2000.

2. The learned counsel for the petitioner would submit that similarly placed persons in O.A.Nos.5601/1999, 7729/2000 & 7734/2000 filed applications seeking to regularise the service from the date of initial appointment and for a consequential relief. That applications were disposed of with a direction to make payment of daily wages as per the market rate fixed by the District Collector, Nagercoil, and pursuance thereto the benefits were given. The petitioner being similarly placed person ought to have been treated and extended the benefits of revised daily wages as per the market rate. Whereas in this case, the petitioner was working as a Water Supply Assistant for more than 10 years and he should be regularised and he also placed the judgement rendered by this Court in W.P.No.15827/1996 dated 3.12.04 and therefore the petitioner could be regularized from the date of original appointment as Water supply Attendant from 17.5.2000.

3. The learned Additional Government Pleader would submit that the petitioner was appointed as Only part time worker and the part time worker is not entitled for regularization. Further subsequent Government Order regarding regularization G.O.(MS).22 P & AR Department dated 28.02.2006 came into effect. The services of the full time daily wages employees who were initially appointed on full time basis in consultation with the Employment Exchange to discharge the function of the post in Tamilnadu Basic Service and completed ten years of service on 01.01.2006 shall be regularized on regular vacancies in the sanctioned cadre strength. The part time and casual employees are not entitled to the concession referred to at para (ii) above. The services of full time daily wages employees who have completed 10 years of service after 01.10.2006 shall not be regularized. He also placed reliance on the judgement of the Hon'ble Supreme Court in the case of Secretary to Government, School Education Department, Chennai Vs. R.Govindaswamy and others and the Supreme Court in Civil Appeal Nos.2730-2731 of 2014 (Arising out of SLP(C).Nos.5686-5687/2014) held that the part time employees are not entitled to seek regularization as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees. Therefore, the petitioner is not entitled to the relief sought for.

4. Heard and perused the records available on record.

5. Admittedly, the petitioner was appointed in the post of Water Supply attender on 17.5.2000 and he filed Original Application in the year 2001 i.e., after completion of one year. As per or the other Government Rules, the person was working as a part time worker for one year are not eligible for regularization unless circumstances of warrants. This case admittedly the petitioner has not been appointed as full time worker through Employment Exchange and as per the contention of the respondent, the petitioner was initially appointed as part time Water Supply Attender in Munchirai Village Panchayat of Munchirai Panchayat Union by the president on 17.5.2000 against the Government Ban Order of appointment with effect from 01.04.1997 in Village Panchayats issued by the Government in G.O (MS).No.93 Rule Development (C3) Department dated 26.3.1997 hence, the initial appointment of the petitioner is irregular and liable for termination at any time.

6. The petitioner is not able to get his appointment through proper channel and further on the date of filing Original Application, he has not completed required years of service and he is not regular employee and also he was not appointed through employment exchange. Therefore, in view of the decision of the Hon'ble Supreme Court that part time employees are not entitled to seek regularization. However, the counsel for the petitioner relied on the decision of this court dated 03.12.2004 in W.P.No.15827 of 1996 wherein the petitioner was appointed in the year 1980 and he is continuously working as such from the date of his appointment for 16 years and claimed regularisation after 15 years and therefore, this court considering the length of the service the petitioner therein put without any break, allowed the writ petition directing the respondents to regularise the petitioner's service. Further, the nature of the job is full time and therefore, this court directed to regularise the service of the petitioner. Whereas, in this case, on the date of filing of the Original Application, the petitioner has completed only one year ie., only temporary employee.

7. Under these circumstances the petitioner is not entitled to the relief sought for in the Writ Petition. Accordingly, this Writ Petition is dismissed. No costs. As far as pay and other benefits are concerned, the petitioner is at liberty to workout his remedy, in the manner known to law.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

mpa

To

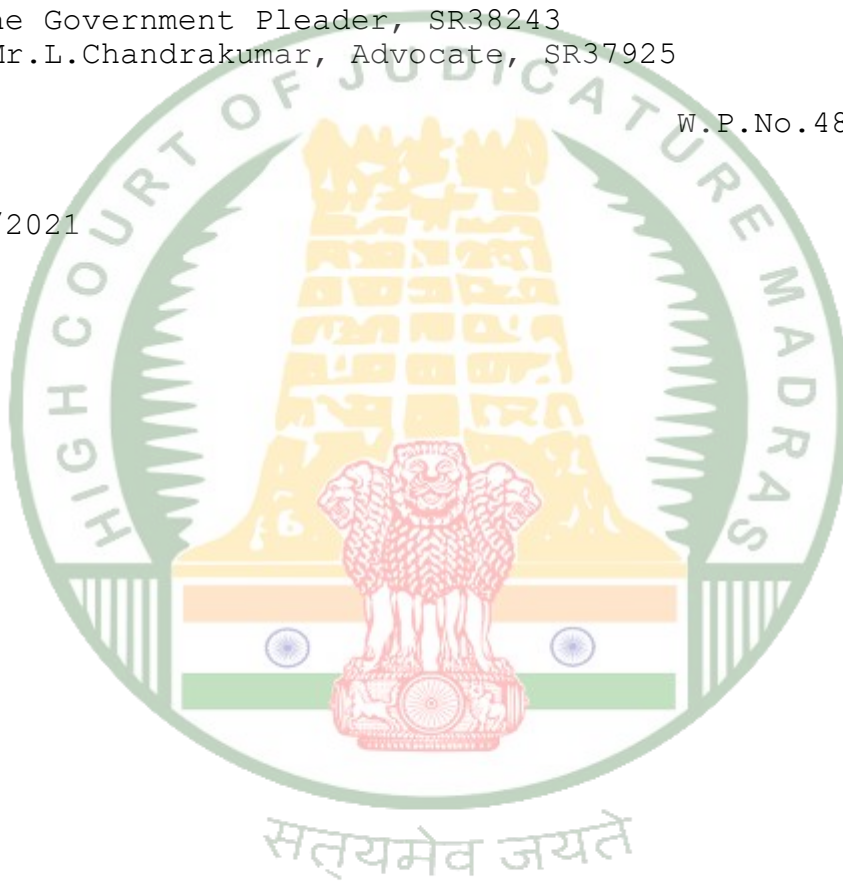
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Munchirai.

+1cc to The Government Pleader, SR38243

+1cc to Mr.L.Chandrakumar, Advocate, SR37925

W.P.No.48463 of 2006

CO (UM)
BDL/19/01/2021



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