



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2020

CORAM:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.15351 of 2014

Maria Ponniah

... Petitioner

-Vs-

1. The Commissioner,
Sattur Municipality,
Sattur, Virudhunagar District.
2. The Director of Municipal Administration,
Chepauk,
Chennai-5.
3. The Secretary to Government,
Department of Municipal Administration,
Fort St. George,
Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the service of the petitioner in the cadre of Sanitary Worker from the date of his initial appointment (i.e., 13.06.1985) with all consequential benefits both monetary and service including the pensionary benefits to him from the date of retirement taking into account of his entire period of service with the respondents.

For Petitioner : Mr.V.Kannan

For Respondents : Mr.CM.Mari Chelliah Prabhu
Additional Government Pleader

ORDER

The relief of regularization is sought for at the age of 60 years by the writ petitioner. The writ petitioner states that he was temporarily engaged as Water Tank Operator on daily wage basis in the year 1985. The writ petitioner states that he was working continuously as a casual labour on daily wage basis. In spite of his repeated representations, his services were not regularised.



Earlier, he filed O.A.No.5970 of 1998 before the Administration Tribunal and thereafter, filed W.P.No.4501 of 2004 to direct the respondents to regularise the services. This Court directed the respondents to dispose of his representation for grant of regularisation. However, the Commissioner, Sattur Municipality, rejected the claim of the writ petitioner for regularisation, in proceedings, dated 02.02.2005. Thereafter, again he filed W.P.No.3797 of 2005, challenging the said proceedings, dated 02.02.2005 and for a direction to regularise his services. Subsequently, the said representation was withdrawn by the writ petitioner on the ground that he was appointed as Sanitary Worker in the time scale of pay in the regular establishment. The petitioner retired from service on 31.05.2014. Thus, he filed the present writ petition to regularise his services.

2.The petitioner had withdrawn the earlier writ petition filed in W.P.No.3797 of 2005, challenging the rejection order passed by the Commissioner, Sattur Municipality, in proceedings, dated 02.02.2005. He had withdrawn the writ petition accepting the fact that he was appointed in the regular establishment as Sanitary Worker in the regular time scale of pay and he attained the age of superannuation and retired from service on 31.05.2014. Once, he set out the claim in W.P.No.3797 of 2005 and thereafter, the writ petition was withdrawn. The order passed by the Commissioner, Sattur Municipality, dated 02.02.2005 hold_good and thereafter, the petitioner cannot adjudicate the very same issue, after a lapse of many years. The petitioner has accepted the subsequent appointment as Sanitary Worker in the time scale of pay and withdrawn the writ petition. Therefore, he has accepted the permanent absorption and now, he cannot file the present writ petition with the same prayer for direction to regularise the services. The earlier rejection order challenged in W.P.No.3797 of 2005 became final and the said order is also not challenged in the present writ petition. Contrarily, a direction is sought for grant regularisation from 13.06.1985.

3.The regularisation or permanent absorption cannot be granted in violation of Rules. The benefit of regularisation is to be extended only in accordance with the Rules in force. All appointments are to be made strictly in accordance with the recruitment Rules and equal opportunity in public employment is the constitutional mandate. The Constitution Bench of the Hon'ble Supreme Court of India in Uma Devi Cases ruled that regularisation or permanent absorption cannot be granted in violation of Rules. Admittedly, the writ petitioner was engaged as casual labour on daily wage basis and he was working continuously and thereafter, he was brought to under regular establishment. He had withdrawn the earlier writ petition filed challenging the rejection order passed by the Commissioner, Sattur Municipality in the year 2005.



4.This being the factum, now at this length of time, the relief as such sought for in the present writ petition cannot be granted and accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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To

1. The Commissioner,
Sattur Municipality,
Sattur, Virudhunagar District.
2. The Director of Municipal Administration,
Chepauk, Chennai-5.
3. The Secretary to Government,
Department of Municipal Administration,
Fort St. George, Chennai.

+1 CC to the SPL GP (SR-21755[F] dated 10/11/2020)

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KMK(CO)
CS(23.11.2020) 3P 5C