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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 18318 of 2011

N.S.Venkatesan

...Petitioner

-vs-

1. The Collector,
Thiruvannamalai District,
Thiruvannamalai.

2. The Block Development Officer (Panchayats),
Vembakkam Panchayat Union,
Vembakkam, Cheyyar Taluk,
Thiruvannamalai District.

3.The President,
Namandi Panchayat,
Namandi Village & Post,
Cheyyar Taluk,
Thiruvannamalai District,
Pin:-604410.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents to regularize the petitioner's services with effect from the date of his initial appointment i.e., 05.10.2000 and grant him all consequential benefits including arrears of salary.

For Petitioner : Mr.P.Mohanraj.

For Respondent : Ms.K.Bhuvaneshwari
Add. Govt. Pleader for R1 & R3.

Mr.D.Suriya Narayanan for R2.

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the respondents to regularize the petitioner's



services with effect from the date of his initial appointment i.e., 05.10.2000 and grant him all consequential benefits including arrears of salary.

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2. The petitioner was appointed as Part Time Panchayat Assistant in the Namandi Panchayat, Vembakkam Panchayat Union on 27.09.2000 and he joined duty on 05.10.2000. The said appointment was made on the basis of resolution passed by the Namandi Panchayat and since the petitioner has been continuously working till date without the regularization and consequential benefits, he filed this Writ Petition.

3. In this context, it is the case of the petitioner that, though the petitioner was appointed as Part Time Clerk at the concerned Panchayat, for which, he was paid only consolidated salary, subsequently, the Government issued a Government Order in G.O.Ms.No.175, Rural Development and Panchayats Department, dated 05.12.2006, under which, as per the decision taken by the Government, all those who are working in the Panchayat like Panchayat Secretary, Part time Clerk etc., in consolidated pay would be brought under time scale of pay with effect from 01.09.2006 and in this context, the said G.O. was issued.

4. Despite the said Government Order was issued, according to the petitioner, he was not brought under regular time scale of pay and his service was not regularized. In order to get the service regularized, by bringing him under regular time scale of pay as per the import of the G.O. referred to above and since the same has not been considered, he approached this Court and filed the present Writ Petition with the aforesaid prayer.

5. I have heard Mr.P.Mohanraj, learned counsel appearing for the petitioner who has reiterated the above facts and seeks indulgence of this Court to give a direction to the respondents to regularize the service of the petitioner by bringing him under the regular time scale of pay which has been mentioned in the G.O.

6. Per contra, the learned Additional Government Pleader appearing for the first and third respondents has submitted that, as per the counter filed by the second respondent, the petitioner admittedly was appointed by the Village Panchayat, i.e., third respondent Village Panchayat, by a resolution and accordingly appointed as Part Time Clerk and in that capacity, he was working. Therefore, if at all the petitioner make any



claim to be brought under time scale of pay, such benefit if explained under the relevant G.O. or any other rule or service regulation, the said request of the petitioner would be considered by the respondents especially the second respondent in accordance with law.

7. In this context, the learned Additional Government Pleader appearing for the first and third respondents has relied upon the following that was stated by the second respondent in his counter affidavit, which reads thus:

"11. Even as admitted by the petitioner in Ground (C) the initial appointment of the petitioner was made by passing a resolution by the third respondent Panchayat and the petitioner is continuing as Part Time Panchayat Assistant as on date. At any rate, the claim of the petitioner will be considered in accordance with the Act and Rules which are in force."

8. I have considered the said submissions made by the parties and have perused the materials placed before this Court.

9. Insofar as the petitioner's appointment is concerned, admittedly, he was appointed as Part Time Panchayat Assistant in the third respondent Panchayat and in that capacity, he is working.

10. As per the counter affidavit as quoted herein above, the petitioner was continuing in that capacity, i.e., was only Part Time Panchayat Assistant. If at all, he seeks claim to make him permanent by bringing under time scale of pay as per the relevant G.O., the said request of the petitioner can be considered strictly in accordance with the rules and Act, i.e., the stand taken by the second respondent.

11. In view of the said stand taken by the second respondent, this Court is inclined to give a direction to the respondents, especially the second respondent as well as the present Administration of the third respondent Panchayat to consider the request of the petitioner, if he is continuously working in that capacity, where he was appointed some years back. Accordingly, the request of the petitioner can be decided in accordance with law.

12. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following direction:



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"That the respondents, especially the second and third respondents are hereby directed to consider the request of the petitioner to make him permanent or absorbing from the date of appointment as has been quoted in the G.O. referred to above, if he is continuously working in that capacity till date and accordingly pass necessary orders to that effect on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order."

13. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vji

To

1. The Collector,
Thiruvannamalai District,
Thiruvannamalai.
2. The Block Development Officer (Panchayats),
Vembakkam Panchayat Union,
Vembakkam, Cheyyar Taluk,
Thiruvannamalai District.
3. The President,
Namandi Panchayat,
Namandi Village & Post,
Cheyyar Tk,
Thiruvannamalai District

+lcc to Government Pleader Sr.8827/2021

W.P. No. 18318 of 2011

SR(co)
NSK 22/07/2021