

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.6928 of 2015

S.Perumal

... Petitioner

Vs

1. The State of Tamilnadu
rep.by its Commissioner and Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai - 9.
2. The Director of Rural Development
and Panchayat Raj,
Panagal Building, Chennai - 15.
3. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to consider the claims of the petitioner dated 30.07.2013 and pass orders on the same in regard to regularisation on completion of 10 years of service with service benefits as it was given to other similarly placed persons in G.O.(Ms)No.55, Rural Development (E5) Department, dated 15.06.2006.

For Petitioner : Mr.G.Elanchezhiyan

For R1 to R3 : Mr.R.S.Selvam, GA

ORDER

The prayer made in this Writ Petition is direct to the first respondent to consider the representation of the petitioner dated 30.07.2013 and pass orders on the same in regard to regularisation on completion of 10 years of service with service benefits as it was given to other similarly placed persons by G.O.(Ms)No.55, Rural Development (E5) Department, dated 15.06.2006.

2. According to the petitioner, he was initially engaged as Night watchman in Cheyyar Panchayat Union in Thiruvannamalai District on 25.01.1984 on contingency basis. Subsequently, based on G.O.Ms.No.267, Rural Development Department, dated 22.12.1999, the Collector, Tiruvannamalai District / 3rd respondent appointed the petitioner as Night watchman in the regular time scale of pay with effect from 01.02.1994 on completion of 10 years of service. However, by proceedings in Na.Ka.No.PaE1/37/2000 dated 04.09.2000, the Collector, Tiruvannamalai District / 3rd respondent passed an order cancelling the earlier regularisation with effect from 01.02.1994 and regularising the services of the petitioner in the post of Night watchman with effect from 26.06.2000 i.e., from the date of issuance of G.O.Ms.No.161 Rural Development (E7) Department, dated 26.06.2000. Immediately, the petitioner made representation to the respondents requesting to regularise his service from 01.02.1994, which were not considered. Stating that by G.O.Ms.No.55, Rural Development and Panchayat Raj (E5) Department, dated 15.06.2006, the Government regularised the services of the daily wage Assistant Fitter employees from the date of completion of 10 years of service, the petitioner submitted various representations to respondents seeking to extend the said benefit to him. Finding no response on the same, he has come up with this writ petition for the aforesaid relief.

3. Upon notice, the respondents filed a detailed counter affidavit, wherein it is inter alia stated that the petitioner was ordered to have been appointed on Night watchman on time scale of pay with effect from 01.02.1994 by the Collector of Tiruvannamalai District in Proceedings in RC.Na.Ka.No.PaE1/37/2000 dated 27.03.2000; however, the said order was erroneously issued without complying with the condition stipulated in G.O.Ms.No.267, RD(E7) Department, dated 22.12.1999 and also in the letter of the Director of Rural Development, Chennai that the absorption and appointment should be made only against vacant post sanctioned on regular time scale of pay as and when arises. It is further stated therein that since the regularisation of the services of the petitioner with effect from 01.02.1994 on regular time scale of pay against a post, which was sanctioned only on 26.06.2000, was not in order, the said order was cancelled and the petitioner was brought under regular time scale of pay in Night watchman post with effect from 26.06.2000 i.e., from the date of which 171 Night watchman posts were created and hence, the act of the respondents in regularising the services of the petitioner with effect from 26.06.2000 is as per law. It is also submitted that the services of the Fitter Assistants, who were appointed till 1.4.1997 and who were completed 10 years of contingent service, were brought under regular time scale of pay establishment only against the sanctioned posts, but were lying vacant and hence,

the request of the petitioner cannot be considered on par with that of Fitter Assistants as per G.O.Ms.No.55, Rural Development and Panchayat Raj Department, dated 15.06.2006.

4.Heard both sides and perused the materials placed before this Court.

5.Considering the limited relief sought in this writ petition, this Court, without expressing any opinion on the merits of the case, directs the respondents to consider the representation of the petitioner dated 30.07.2013, if not already considered, and pass appropriate orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

6.This Writ Petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner and Secretary to Government
The State of Tamilnadu
Rural Development and Panchayat Raj Department,
Secretariat, Chennai - 9.
2. The Director of Rural Development
and Panchayat Raj,
Panagal Building, Chennai - 15.
3. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

+1cc to Mr.G.Elanchezhian, Advocate, S.R.No.5976
+1cc to the Government Pleader, S.R.No.6657

W.P.No.6928 of 2015

GMI (CO)
CB(07/07/2021)