

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.43510 of 2016

and WMP.No.37337 of 2016

P.Gnanasekaran

...Petitioner

Vs

1. The Secretary,
Government of Tamil Nadu,
Rural Development and Local Administration,
Fort St. George, Chennai - 600 009.
2. The Director of Rural Development,
Panagal Building,
Saidapet, Chennai - 600 015.
3. The District Collector,
Thiruvavarur District,
Thiruvavarur.
4. The Block Development Officer,
Thiruthuraipoondi,
Thiruvavarur District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for records (i) on the file of third respondent in connection with his proceedings Na.Ka.No.2181/2007/A3 (Development) dated 11.09.2007 and (ii) on the file of the fourth respondent in connection with proceedings Na.Ka.No.2804/2007/A1 dated 25.10.2007 and quash the same as unconstitutional and consequently direct the respondents to continue to grant all benefits by regularizing on completion of 5 years of service by apply the judgement of this Hon'ble Court made in W.A.No.763 of 2013 dated 03.04.2014.

For Petitioner

: Ms.T.Aananthi

For Respondents

: Mr.R.S.Selvam, GA

ORDER

This writ petition has been filed to quash the proceedings of the third respondent in Na.Ka.No.2181/2007/A3 dated 11.09.2007 and the proceedings of the fourth respondent in Na.Ka.No.2804/2007/A1 dated 25.10.2007 and consequently, direct the respondents to continue to grant all benefits by regularising the service of the petitioner in the light of the judgment of the Division Bench in W.A.No.763 of 2013 dated 03.04.2014.

2. According to the petitioner, he was appointed as Watchman through Employment Exchange by the fourth respondent on 20.05.1983 and he joined the service on 27.05.1983 on consolidated pay with allowances. Subsequently, his service was regularized with effect from 09.06.1992 upon completion of 10 years and he was also granted regular scale of pay and increments with arrears by the fourth respondent in his proceedings dated 20.07.2004. While so, the third respondent vide proceedings dated 11.09.2007 cancelled the order of regularisation of the petitioner's service with effect from 09.06.1992 and granted regularization with effect from the date of issuance of G.O.Ms.No.161, Rural Development Department dated 26.06.2000. Pursuant to the same, the pay and allowances granted to the petitioner were refixed by the fourth respondent by proceedings dated 25.10.2007 and accordingly, the excess amount of Rs.89,898/- allegedly paid to him from 09.06.1992 to 30.09.2007 was directed to be recovered from the salary of the petitioner. Challenging the orders of revising the date of regularisation and recovery, the petitioner filed W.P.No.20355 of 2011, which was allowed on 20.10.2011. Since the said order was not complied with, within the stipulated period, the petitioner initiated Contempt Proceedings. Thereafter, the respondent authorities refunded the amount recovered from the petitioner. However, the petitioner seeking to regularise his service on completion of five years, in the light of the judgment of the Division Bench of this Court in WA.No.763 of 2013 dated 03.04.2014, has filed this writ petition for the aforesaid relief.

3. Upon notice, the respondents filed a detailed counter affidavit, wherein, it is inter alia stated that inasmuch as the orders passed by the third respondent dated 11.09.2007 and the subsequent orders passed by the fourth respondent dated 25.10.2007, have already been set aside by this court in WP.No.20355 of 2011 and consequently, the petitioner was granted all monetary benefits with reference to his earlier date of regularisation with effect from 10.06.1992 and also granted selection grade on completion of 10 years of service with effect

from 10.06.2002, there is nothing due to the petitioner. It is also submitted that the claim of the petitioner with regard to the regularisation of his services with effect from the date of completion of 5 years of service cannot be considered in view of the uniform policy of the Government to regularise the services of the employees employed on contingency basis, daily wages etc., on completion of 10 years of service in such categories. Therefore, the respondents sought to dismiss this writ petition.

4.The learned counsel for the petitioner submitted that the issue involved herein is covered by the judgment of a Division Bench of this Court dated 03.04.2014 in W.A.No.763 of 2013 and hence, the case of the petitioner may be directed to be considered in the light of the said decision.

5.Reiterating the averments made in the counter affidavit, the learned Government Advocate appearing for the respondents made his submissions. According to him, the aforesaid Division Bench order is not applicable to the case of the petitioner.

6.This Court considered the rival submissions and also perused the materials available on record.

7.It is seen from the records that in view of the order passed by this Court in WP.No.20355 of 2011, setting aside the orders impugned herein, the petitioner was granted all the monetary benefits taking note of his date of regularisation of his service with effect from 10.06.1992. Further, he was also granted selection grade with effect from 10.06.2002, upon completion of 10 years of service and there was no due payable to him.

8.With respect to the claim made in this writ petition seeking regularisation upon completion of 5 years of service, in the light of the judgment of the WA.No.763 of 2013, this Court is of the opinion that the issue involved in the said writ appeal is relating to the date of regularisation either from the date of appointment against the sanctioned post or from the date of issuance of G.O.Ms.No.161 Rural Development Department, dated 26.06.2000 and the Division Bench, after taking note of the facts that the appellant was sponsored by the Employment Exchange and he was appointed as Night Watchman on 04.11.1982; subsequently, he was promoted as office Assistant in the place of one Subramaniam in the time scale pay of Rs.450-10-570-15-720 on 11.10.1985; thereafter, his services were regularised on 15.10.1986 and he also got selection grade in the post of office Assistant on 18.11.1995; and hence, it was held that the regularisation of his services from the date of issuance of G.O.Ms.No.161 dated 26.06.2000, cannot be sustainable in law. As such, that decision cannot be applicable to the facts of the

present case as the issue involved herein and the writ appeal is not one and the same, but different.

9. Therefore, in the absence of any specific rule / provision, the prayer of the petitioner cannot be entertained by this Court. Further, in the light of the averments made in the counter affidavit, more particularly, that the petitioner was granted all the monetary benefits with reference to his earlier date of regularisation with effect from 10.06.1992 and he was also granted selection grade upon completion of 10 years of service, there is nothing to be done by this Court.

10. In such view of the matter, the writ petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

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3. The District Collector,
Thiruvavarur District, Thiruvavarur.
4. The Block Development Officer,
Thiruthuraipoondi,
Thiruvavarur District.

+1cc to Mr.M/s.T.Aananthi, Advocate, S.R.No.12354
+1cc to the Government Pleader, S.R.No.18426

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LN (CO)
RG (13/07/2021)