

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.19020 of 2014

P.S.Manikandan

... Petitioner

Vs.

1. The Director of Town Panchayats
Kuralagam, Chennai.

2. The Executive Officer,
Uthangari Town Panchayat,
Uthangarai, Krishnagiri District.

... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents herein to regularize the service of the petitioner in any entry level post under the second respondent town panchayat.

For Petitioner :Mr.V.Vijay Shankar

For Respondents :Mr.J.Ramesh

Additional Government Pleader- R1

Ms.M.E.Rani Selvam - R2

ORDER

This writ petition has been filed seeking a direction to the respondents to regularize the service of the petitioner in any entry level post under the second respondent Town Panchayat.

2.The learned counsel for the petitioner submitted that the petitioner along with others were engaged by the second respondent in connection with water supply works as daily wage employees in the year 2004 and their salary was paid through a Self Help Group. The petitioner was subsequently, treated as NMR employee from August 2011 and he completed more than 10 years of continuous service under the second respondent. It is further submitted that as per G.O.Ms.No.198 MAWS Department, dated 26.10.1998, similarly placed employees in other Town Panchayats, who are discharging duties in connection with water supply works, were initially brought on consolidated pay for a period of three years and thereafter, were brought under regular time scale of pay. Though there are several vacancies in the second respondent Town Panchayat and the petitioner is eligible

for appointment and regularisation, the second respondent has taken steps to recruit fresh hands from the open market. Hence, the present writ petition.

3.Per contra, the learned Additional Government Pleader appearing for the first respondent submitted that since the petitioner is receiving salary through a Self Help Group, he is not entitled for regularization of service. He further submitted that the writ petition in WP.No.12047 of 2013 filed by the similarly placed employees, was dismissed by this Court on 26.10.2018 and hence, this writ petition is also liable to be dismissed.

4.Heard both sides and perused the records.

5.Admittedly, similarly placed employees have already approached this Court by filing W.P.No.12047 of 2013 for regularisation of their services, which was dismissed, after following the decisions of the Supreme Court in State of Karnataka v. Umadevi and others [2006 (4) SCC 1] and the Secretary to Government, School Education Department, Chennai v. R.Govindaswamy and others [(2014) 4 SCC 769], by observing that the regularisation or permanent absorption cannot be granted in violation of the rules in force and all appointments are to be made only under the Constitutional schemes by following the procedures as contemplated under the regularisation rules.

6.In the light of the aforesaid order dated 26.10.2018 passed by this Court in W.P.No.12047 of 2013, this writ petition is also liable to be dismissed and is accordingly, dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

vrc

To

1. The Director of Town Panchayats, Kuralagam, Chennai.
2. The Executive Officer,
Uthangari Town Panchayat,Uthangarai, Krishnagiri District.

+1 cc to Mr.V.Vijay Shankar, Advocate Sr No.1139

+1 cc to Government Pleader Sr No. 1484

W.P.No.19020 of 2014

AAB(CO)

RG.22/04/2021(2P/5C)