



W.P. No.24536 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

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THE HONOURABLE MS. JUSTICE R. N. MANJULA

W.P. No.24536 of 2021

N.Narayanasamy

...Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Additional Chief Secretary
to Government,
Rural Development and Panchayat Raj
Department,
Panagal Building,
Saidapet,
Chennai-600 015.

2.The Director of Rural Development,
Directorate of Rural Development and
Panchayat Raj Department,
Pangal Building,
Saidapet,
Chennai-600 015.

3.The District Collector,
Nagappattinam,
Nagappattinam District.

4.The Block Development Officer,
Thalaignayiru Panchayat Union,
Thalaignayiru,
Nagappattinam District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of mandamus, directing the first respondent to consider the representation of the petitioner dated 15.07.2021 and pass order on the same with regard to regularisation from the date of order of the Hon'ble Tamil Nadu Administrative Tribunal in OA. No.5588 of 2001 dated 30.08.2001 as was to the petitioner's juniors and similarly placed persons in G.O.(2D) No.65 Rural Development and Panchayat Raj (E5) Department, dated 20.09.2008.

For Petitioner : Mr.A.R.Suresh
for Mr.K.Arumugam
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The petitioner has filed this writ petition for the issuance of a writ of Mandamus, directing the first respondent to consider the petitioner's representation dated 15.07.2021 and pass orders with regard to retrospective regularisation of the petitioner on par with his juniors and similarly placed persons pursuant to the order of the Tamil Nadu Administrative Tribunal in OA. No.5588 of 2001 dated 30.08.2001.

2. The petitioner was temporarily appointed as Cholera Mazdoor on 28.01.1983 on daily wages basis. Subsequently the petitioner was ousted from service for want of vacancy. Thereafter, he had filed an original application in OA No.5588 of 2001 before the Tamil Nadu Administrative Tribunal along with similarly placed persons challenging their termination. In the said original application, the following orders have been passed:



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"In the light of the judgment delivered in T.A.729/93, dated 23.03.1998 it is hereby ordered that the respondent panchayat Union Commissioner, Thalainayiru, Nagapattinam District may consider the application of the applicant, Tr.Narayana Samy dated 26.05.2000 and post him in any one of the vacancies of basic servant or watchman arising in future, in view of the fact that he has been served in this panchayat Union since 1985 onwards."

3. Pursuant to the said direction, the petitioner's services have been regularized. However his services were regularized with effect from 27.11.2013 instead of from the year 2001. Hence the petitioner has filed the present writ petition.

4. Mr.A.R.Suresh, the learned counsel for the petitioner submits that the service of the petitioner has to be regularized from 2001. The relevancy of the year 2001 is that it is the date of order of the Tribunal, through which similarly placed persons have been regularized from the year 2001. However, the service of the petitioner has not been regularized with effect from 01.04.2001. Therefore, he seeks a direction to the first respondent to consider the petitioner's representation dated 15.07.2021 and pass orders with regard to retrospective regularisation of the petitioner on par with his juniors and similarly placed persons pursuant to the order of the Tamil Nadu Administrative Tribunal in OA.



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5. Attention was drawn to the proceedings of the Panchayat Union Commissioner in Na.Ka.938/98/A2 dated 28.03.2001, wherein similarly placed persons have been regularized with effect from 01.04.2001

6. Mr.Yogesh Kannadasan, the learned Special Government Pleader for the respondent submitted that the post of the petitioner was not a sanctioned post and he has been appointed without adopting the regular procedure and so, there cannot be any question of junior or senior. Hence, the petitioner cannot seek retrospective regularization.

7. It is not in dispute that the regularization of the petitioner have been accorded only pursuant to the order of the Tribunal made in this regard. When similarly placed persons have been extended with the benefit of getting regularization with effect from 1.04.2001 by taking into account the year in which the Tribunal has given the order, it is not unfair on the part of the petitioner to claim similar benefit. The petitioner does not claim that he has been appointed against any sanctioned post in the first instance. The petitioner has admitted that he has been appointed temporarily. However the regularization has been accorded only in view of the orders of the Tribunal.

When similarly placed persons have been given the benefit, the first respondent



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Therefore, the first respondent is directed to consider the representation dated 15.07.2021 of the petitioner and pass orders, within a period of six weeks from the date of receipt of a copy of this order.

8. With the above directions, the writ petition stands disposed of. There will be no order as to costs.

24.01.2024

Index : Yes / No

Internet : Yes/ No

mrn

To

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The State of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Panagal Building,
Saidapet,
Chennai-600 015.

2. The Director of Rural Development,
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R. N. MANJULA, J.

(mrn)

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