



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.14534 of 2020

WEB COPY

K.Subramanian

... Petitioner

Vs.

1.The Commissioner of Revenue Administration,
O/o.the Commissioner of Revenue Administration,
Ezhilagam,
Chepauk, Chennai-600 005.

2.The District Collector,
O/o.The Collectorate,
Sivagangai District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent, dated 26.05.2017 and quash the same as illegal and consequently direct the second respondent to regularize the services of the petitioner as Junior Assistant at the Taluk Office, Tiruchuli, Virudhunagar District from 08.07.2003 to 20.10.2010 and to consider his service for seniority from 08.07.2003 to 19.01.2010 and till date.

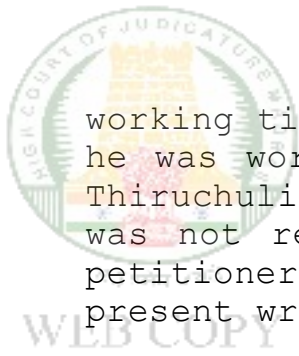
For Petitioner : Mr.N.S.Ponnaiah

For Respondents : Mr.P.Subbaraj
Government Advocate

ORDER

The petitioner has filed the present writ petition to quash the impugned order of the second respondent, dated 26.05.2017 and consequently direct the second respondent to regularize the services of the petitioner as Junior Assistant at the Taluk Office, Tiruchuli, Virudhunagar District, from 08.07.2003 to 20.10.2010 and to consider his service for seniority from 08.07.2003 to 19.01.2010 and till date.

2. According to the petitioner, he was appointed on 07.07.2003 as Temporary Junior Assistant by the District Collector. Subsequently, he participated in the examination conducted by the Tamil Nadu Public Service Commission on 17.07.2008 and was selected as Junior Assistant in the permanent post and he is



working till now. The grievance of the petitioner is that though he was worked as Temporary Junior Assistant in the Taluk Office, Thiruchuli for about 7 years, 3 months and 11 days, his service was not regularised till date. The representation given by the petitioner was rejected and hence, he has come out with the present writ petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner's temporary service viz., about 7 years at Thiruchuli Taluk Office, has to be converted or modified as permanent service for his promotion purpose in future. The petitioner is not claiming any mandatory benefits. The judgment of this Court and the Hon'ble Apex Court relied on by the petitioner before the District Collector was not considered before passing the impugned order. The impugned order of the second respondent is against law and against the principles of natural justice and relied on the order of this Court, dated 12.06.2017, in W.P(MD) Nos.21316 and 2137 of 2015 [P.Karthikeyan vs. The Commissioner, Most Backward and Denotified Communities Welfare Department and another] and the order, dated 27.11.2019, made in W.P.No.27923 of 2019 [S.Rajesh Kanna and others vs. The Secretary, Department of School Education and another].

4. The first respondent filed counter affidavit. Mr.P.Subbaraj, learned Government Advocate appearing for the respondents submitted that during July 2003, there was an indefinite mass strike announced by employees of various departments in the State of Tamil Nadu. In order to meet the contingency and the difficult situation, the Government of Tamilnadu passed G.O.Ms.No.85, Personal and Administrative and Reforms Department, dated 03.07.2003, creating 500 supernumerary posts for each district under Rule 11 of the Tamilnadu State Subordinate Service Rules. A gross remuneration of Rs.4,000/- per month was fixed. In the Government Order, it was made clear that such supernumerary posts are created on account of contingency and it will not give them any right and that they are not members of Tamilnadu Subordinate service and regular service rules applicable to the regular employees are not applicable to them.

5. The learned Government Advocate appearing for the respondents further submitted that the respondents also entered a contract with those employees in the format Annexure II that their appointment is only temporary and they can be terminated at any time without notice and without assigning any reason. The petitioner was appointed as temporary Junior Assistant by the District Collector, Virudhunagar, in the order Na.Ka.A1/25889/2003, dated 07.07.2003. Agreeing for the terms of contract, petitioner has joined duty and working in such capacity and was receiving Rs.4,000/- per month in the supernumerary post



so created. While so, the Government took a policy decision to bring of such employees into the regular establishment and conduct a special competitive examination through Tamil Nadu Public Service Commission. The petitioner was successful in the special competitive examination and was appointed as Junior Assistant in the office of the Tahsildar, Manamadurai, by proceedings of the second respondent, dated 12.01.2010 and now he is working in the regular post. Earlier, the petitioner was appointed temporarily in supernumerary post on contract basis. In view of the same, the petitioner is not entitled for regularisation of the period, he worked in the supernumerary post. The respondents considered the request of the petitioner and rejected the same by giving valid reason and prayed for dismissal of the writ petition.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

7. From the rival submissions and the materials on record, it is seen that due to indefinite mass strike during July 2003 by employees of various departments, 500 supernumerary posts were created in each Districts and the District Collector was permitted to appoint the persons to the said posts. Subsequently, in order to give benefit to the persons appointed in supernumerary posts, a special competitive examination was conducted through Tamil Nadu Public Service Commission and successful candidates were appointed in regular posts. These admitted facts clearly show that the petitioner was not appointed to the regular post in the year 2003. To meet out the contingency, supernumerary posts were created and the petitioner was one among the appointees in a supernumerary post. Inasmuch as the petitioner was appointed in supernumerary post, the petitioner is not entitled to regularisation of service rendered by him in supernumerary post.

8. In view of the same, the orders relied on by the learned counsel appearing for the petitioner does advance the case of the petitioner and there is no error in the impugned order. Therefore, the writ petition is dismissed. No costs.

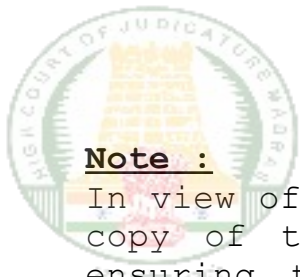
Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)



Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Commissioner of Revenue Administration,
Ezhilagam,
Chepauk, Chennai-600 005.

2.The District Collector,
Sivagangai District.

+1 CC to M/s.SPL GP (SR-20459[F] dated 28/06/2021)

W.P. (MD)No.14534 of 2020

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