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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.738 of 2014

and

M.P(MD)No.1 of 2014

1.The Director of Village Panchayat,
Panagal Building,
Saidapet,
Chennai - 600 015.

2.The Assistant Director of Panchayat,
(Village Panchayats),
Collectorate,
Nagercoil.

3.The District Collector,
Nagercoil,
Kanyakumari District.

... Appellants/Respondents 1 to 3

Vs.

1.V.Thanumoorthy

... 1st Respondent/Petitioner

2.The Executive Officer,
Palloor Village Panchayat,
Palloor, Poothatty Post,
Kanyakumari District.

3.The Executive Officer,
Thippiramalai Village Panchayat,
Kannan Vilai, Karungal Post,
Kanyakumari District.

4.The Executive Officer,
Mullanganavilai Village Panchayat and Post,
Kanyakumari District. ... Respondents 2 to 4/
Respondents 4 to 6

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 13.02.2014 made in W.P(MD)No.10666 of 2008 on the file of this Court.

Prayer in WP(MD). 10666/ 2008 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of



Mandamus, directing the respondent 1 to 3 to regularise the petitioner is service from 03/06/1996 and consequently direct the respondents to appoint the petitioner as office Assistant under any of the panchayat Union .

For Appellants : Mr.Sricharan Rangarajan,
Additional Advocate General.
Assisted by
Mr.P.Mahendran,
Additional Government Pleader.

For RR 1 to 4 : No appearance

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

The Government has preferred the present Writ Appeal, challenging the order, dated 13.02.2014 passed in W.P(MD)No.10666 of 2008.

2.The first respondent/writ petitioner, who was a Hand Pump Fitter / Helper appointed on a daily wage basis by the Commissioner, Killiyoor Panchayat Union on 03.06.1996, was seeking to get his service regularized as per the Government Order in G.O.Ms.No.55, Rural Development and Panchayat Raj (E5) Department, dated 15.06.2006. He has completed 10 years of service. The above said G.O is applicable to the persons, who have put in service for more than 10 years from 1982 to 01.04.1997.

3.According to the first respondent / writ petitioner, out of 15 persons, who were recommended by the third respondent, services of 13 persons have been regularized, only the first respondent / writ petitioner and one P.Wilson were not considered by the authorities, despite they possessed the required qualification. The first respondent / writ petitioner further stated that despite they possessed the required qualification and completed service for 10 years and also the appointment was in the year 1996, his service should also have been regularized on par with the Hand Pump Fitter / Helper of other Unions. Hence, the first respondent / writ petitioner filed a Writ Petition in W.P(MD)No.10666 of 2008 for a Writ of Mandamus, seeking a direction to the respondents 1 to 3 to regularize his service from 03.06.1996 and direct the respondents to appoint the first respondent / writ petitioner as Office Assistant under any of the Panchayat Union.

4.The relief sought for by the first respondent / writ petitioner was seriously opposed by the respondents therein contending that the first respondent / writ petitioner did not have



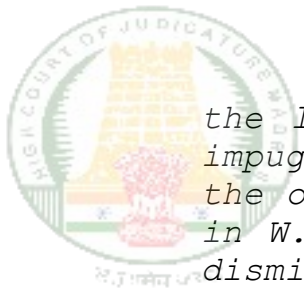
complete 10 years of continuous service as Hand Pump Fitter / Helper. Though the third respondent had produced his attendance register showing that the first respondent / writ petitioner was appointed on 01.06.1996 and had service till 30.09.2003 with intervening break up service, he could not have been regularized as per the above said G.O.

5.The learned Single Judge, who heard the matter, had allowed the Writ Petition holding that the first respondent / writ petitioner is eligible to be regularized. Aggrieved by the same, the Government has preferred the present Writ Appeal.

6.Mr.Sricharan Rangan, learned Additional Advocate General, who represented on behalf of the appellants, produced a copy of the letter issued by the Block Development Officer, Killiyoor, to the District Collector, Kanyakumari at Nagercoil in Letter No.A1/2071/2006, dated 27.10.2006. The Letter refers to four of the employees including that of P.Wilson referred to by the first respondent / writ petitioner and the first respondent / writ petitioner himself. The Block Development Officer has specifically stated that the order of appointment of the first respondent / writ petitioner was not with the Block Development Office. The letter also specifically had mentioned the days of service put in by the first respondent / writ petitioner. The first respondent / writ petitioner's service within the period mentioned in the above said G.O is from June 1996 to June 1997 which is approximately only one year. Similarly, the other person referred to by the first respondent / writ petitioner, viz., P.Wilson, had worked between November, 1992 and June 1997, for about 6 years and 11 months. Since the first respondent / writ petitioner had not completed 10 years of continuous service as Hand Pump Fitter / Helper for the period from 1982 to 01.04.1997, his name was not recommended by the Commissioner of Killiyoor Panchayat Union for regularization.

7.In similar circumstances, the case of the above referred P.Wilson was also not considered by the Division Bench of this Court in ***P.Wilson Vs. The Director of Rural Development and Panchayat Raj, Panagal Building*** reported in **2014 SCC Online Mad 3491**, which reads as follows:-

"7.A reading of the Government Order clearly shows that the said Government Order is applicable only to 978 persons, who have been working from 1982 to 01.04.1997 and completed ten years of service on or before 01.04.1997. Admittedly, the appellant was engaged only from 01.04.1992 to 30.04.2004 and he has been working with intermittent breaks and from the particulars furnished in the counter affidavit, it is clear that the appellant had worked only for six years and eleven months as on 30.04.2004. Therefore,



the learned Judge has rightly declined to quash the impugned order. We see no reason to interfere with the order of the learned Judge, dated 25.04.2013 made in W.P(MD)No.1437 of 2010. Hence, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

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8.Heard the learned counsel appearing for the appellants and there is no representation on behalf of the respondents and perused the materials available on record.

9.In the instant case, the first respondent / writ petitioner has worked only for an year and therefore, the Commissioner of Killiyoor Panchayat Union had rightly not recommended his name. The learned Single Judge had computed the entire period even after June 1997 and arrived at a conclusion that the first respondent / writ petitioner had completed 10 years of service, which is patently wrong. As held supra, when the first respondent / writ petitioner had served only for less than a year, his services cannot be regularized as per G.O.Ms.No.55, Rural Development and Panchayat Raj (E5) Department, dated 15.06.2006.

10.In view of the above, the order passed by the learned Single Judge, dated 13.02.2014 in W.P(MD)No.10666 of 2008 is set aside and the Writ Appeal stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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