



WEB COPY



WP.No.5749 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.08.2022

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

WP.No.5749 of 2019

Indirani

.. Petitioner

Versus

1.The Principal Secretary to the Government,
Rural Development and Rural Department,
Fort St. George,
Chennai – 600 009.

2.The Director,
Rural Development and Rural Department,
Fort St. George,
Chennai – 600 009.

3.The District Collector,
Namakkal District,
Namakkal.

4.The Project Directorm
District Rulral Development Authority,
Namakkal.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the first respondent to pass



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orders on the proposals and recommendations sent by the 2nd respondent in Na.Ka.No.1568/2013/F.1 dated 11.12.2014 within a stipulated period as fixed by this Court.

For Petitioner : M/s.Rani Selvam

For Respondents : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

ORDER

The prayer sought for herein is for a writ of Mandamus, to direct the first respondent to pass orders on the proposals and recommendations sent by the 2nd respondent in Na.Ka.No.1568/2013/F.1 dated 11.12.2014 within a stipulated period as fixed by this Court.

2.The petitioner was temporarily appointed as Sweeper by the 4th respondent on 23.07.1997 as per proceedings No.A100/1997/B1 on daily wage basis at the rate of Rs.360/-.

3.In that capacity, the petitioner had been continuously working as Sweeper at the 4th respondent's office, i.e. District Rural Development



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Agency [In short 'DRDA']. Despite the petitioner having been working for several years on temporary basis, the respondents have not come forward to regularize her service and after prolonged effort taken by the petitioner in this regard, the second respondent has recommended and sent a proposal to the first respondent that the petitioner having the necessary qualification she is eligible to be regularized as Sweeper-cum-Office Assistant which is not coming under the jurisdiction of the Tamil Nadu Public Service Commission.

4. Though such a recommendation has been made, when the proposal reached the first respondent Government, the first respondent by communication dated 26.04.2018 directed the second respondent not to make such a piecemeal recommendation of regularization of temporary menial service employee, instead this kind of proposal can be consolidated and the consolidated proposal consisting of all such temporary employees who all are working for long years at various District Rural Development Units be sent combinedly to the Government for consideration for regularization. Though this communication was made by the Secretary to



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Government on 26.04.2018 to the Director of Rural Development, i.e. the second respondent herein, no combined proposal seems to have been given including the name of the petitioner and other similarly placed persons in various DRDA Units.

5. Therefore, when this writ petition came up for hearing on 26.07.2022, this Court having noted the said development has passed the following order:

With regard to the plea raised by the petitioner to get regularization as she was working as sanitary worker for more than 10 years from the year 1997 at the District Rural Development Agency, Namakkal District, though it was recommended strongly by the Director of Rural Development by proceedings dated 11.12.2014 to the Government i.e., the Department of Rural Development, who in turn has written a letter to the Director of Rural Development by proceedings dated 26.04.2018 stating that in order to regularize these kind of appointments a combined proposal was sought for by the Government by letter dated 26.04.2018 and therefore, the individual cases cannot be decided. Though such a request was made by the



Government from the Rural Development Department on 26.04.2018 to give a combined proposal, whether such proposal subsequently has been sent by the Director of Rural Development or not is not known.

2. In order to ascertain the same and to file a status report in this regard, learned Government Advocate seeks some time.

Post the matter on 10.08.2022.

6.Pursuant to the said order, when this writ petition is taken up for hearing today [24.08.2022], the learned Additional Government Pleader appearing for the Government has filed the status report filed by the first respondent dated 08.08.2022, wherein interalia the first respondent has stated the following:

4.It is respectfully submitted that the District Rural Development Agency [hereinafter called as DRDA] is not a Government office but an agency registered under Tamil Nadu Societies Registration Act. The District Collector is the Ex-Officio Chairman of the DRDA and all the staffs including the Project Director who is the Chief Executive Authority of the DRDA are drafted on deputation basis from various Government Departments, especially most of them



from Rural Development and Panchayat Raj Department. It is further submitted that Salary and perks of all the staff of this agency are met out from a scheme fund called 'DRDA Administration Scheme', the scheme funded by both the Central and State Governments on a 60:40 basis.

5.It is further submitted that, while it is so, the Project officer, DRDA, Namakkal, the 4th respondent herein appointed the petitioner as Sweeper in and by Proc. ROC No.100/1997/Pa.1 dated 23.07.1997 on temporary basis in spite of the fact that the post of Sweeper was not sanctioned in the DRDA, Namakkal.

6.It is submitted that in Government Lr.No.24766/E-7/2017-1 dated 26.10.2017 it has been requested to send the proposal to regularise 16 Full time employees only. It is submitted that the above information of the Government,, the 1st respondent herein issued in Lr.No.28488/E-7/2014-6 dated 26.04.2018 has been promptly conveyed and served to the petitioner in person on 28.11.2018 by the District Collector, Namakkal, the 3rd respondent herein in memo ROC.No.W3/11394/2017 dated 19.11.2018 through the Project Director, Namakkal, the 4th respondent herein in Endt.Roc.No.611/2018/A1 dated 28.11.2018. But no proposal has been received/pending with Government till date. Therefore, the contention of the petitioner that the



proposals are pending before the first respondent for orders since 2014 is absolutely false.

7.By relying upon these averments, the learned Additional Government Pleader would submit that so far no such proposal has been received by the first respondent from the second respondent including the name of the petitioner for the purpose of regularization.

8.The learned Additional Government Pleader would further submit that since DRDA is not a Government Department or Government Wing and it is a Society registered under the Tamil Nadu Societies Registration Act as District Rural Development Agency, where the District Collector concerned is the the Ex-officio Chairman and the funds being utilized by the DRDA is from the Central Government and State Government at the ratio of 60:40 and the post of Sweeper since has not been sanctioned despite that the petitioner since was appointed in 1997 by the 4th respondent, the claim made by the petitioner that her name has been sponsored by the 4th respondent as recommended by the second respondent to the Government and it is pending before the first respondent may not be a correct statement



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and therefore, in this regard the plea raised by the petitioner cannot be considered and granted.

9.I have considered the said submission made by the learned Additional Government Pleader appearing for the respondents and have perused the status report filed by the first respondent.

10.Assuming that the DRDA is a Society and the funds being utilized by the Society is being made or paid by the Central Government and State Government at the ratio of 40:60 for the purpose of so many rural development works at rural areas to be undertaken in the Revenue District concerned, there is a set of officers headed by the District Collector who is the Ex-Officio Chairman of DRDA and other officers like the Project Officer and Engineering people who execute various works in the District concerned.

11.Therefore, a permanent office is functioning in every District as DRDA in a required premises. Therefore in each and every such DRDA



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office certainly the post of menial servants like Sweeper is required. Hence, the plea now raised by the 4th respondent that the post of Sweeper has not been sanctioned cannot be put against the petitioner because the petitioner was appointed on temporary basis in the year 1997 by the 4th respondent only on need basis and from 1997 to till date the petitioner has been continuously working as Sweeper. Therefore, it become evident that there was a dire need of such kind of servants required in the DRDA office in every District including a Sweeper or more than one Sweeper. Therefore, such a dire need for a longer time in an Office like DRDA shall be recognized by the Government and therefore, whenever such a proposal come from the Department Head like the Director of Rural Development, that shall be positively considered by the Government and such approval for regularization should have been issued.

12.Further, in this context there has been communications between the Director, i.e. the Head of the Department and the Secretary to Government, who is the head of the Government in the concerned Department and in spite of this communication no fruitful action seems to



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have been taken to regularize the service of the poor menial servants like the petitioner. This kind of pitiable status of these workers cannot be approved by this Court in view of the catena of decisions passed by this Court as well as the Hon'ble Supreme Court in this regard that in a Government office or a Government undertaking, such kind of temporary appointment cannot be permitted to go on for such a longer period, i.e. more than two or three decades without having considered the regularization process.

13. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order:

“There shall be a direction to the second respondent to forward the proposal to the first respondent Government about the plea raised by the petitioner for regularization of the service of the petitioner with effect from the initial engagement of the petitioner in the year 1997 within a period of four weeks from the date of receipt of a copy of this order and on receipt of such proposal, the first respondent shall act upon and pass necessary orders giving



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such permission to the second respondent for regularizing the services of the petitioner as Sweeper with effect from 1997 and accordingly, the continuity of service and the service benefits be calculated and extended to the petitioner within a period of eight weeks thereafter.

14. With these directions, the writ petition stands disposed of.

However, there shall be no order as to costs.

24.08.2022

Internet : Yes
Index : Yes/No
cse



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R.SURESH KUMAR, J.,

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