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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.32770 of 2013

and

M.P.No.1 of 2013

M.Jayaraman

...Petitioner

-Vs-

1. The Secretary to Government,
Revenue Department,
Fort St. George, Chennai - 9.
2. The Commissioner of Revenue Administration,
Chepauk, Chennai - 5.
3. The District Collector,
Collectorate, Salem - 636 001.
4. The Revenue Divisional Officer,
Mettur, Mettur Taluk,
Salem District.

...Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the order in Na.Ka.No.16104/2006/A8 dated 29.10.2013 passed by the 3rd respondent, quash the same and consequently direct the respondents to regularize the petitioner's services with effect from 01.07.1996 in the cadre of Night Watchman and also direct the respondents to pay the arrears of pay, payable to the petitioner in pursuant to the regularization.

For Petitioner : Mr.M.Elango

For Respondents: Mr.T.Chezhiyan,
R1 to R4 Additional Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.



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2.The petitioner herein had joined as a Watchman on 01.07.1982 in the vacancy that arose under the fourth respondent office. By the impugned order dated 29.10.2013, his services came to be regularized, by placing reliance on G.O.No.222, Revenue (Service - 8(2)) Department dated 01.07.2013, with effect from 01.07.2013.

3.The present Writ Petition is filed claiming that the petitioner would be entitled for regularization from the date of completion of 10 years of service, in accordance with G.O.No.22, Personnel and Administrative Reforms Department, dated 28.02.2006.

4.In the counter affidavit filed by the respondents, it is stated that the original post was a created one and since it is not a sanctioned post, the petitioner's claim for regularization after 10 years, is not feasible.

5.The initial appointment order dated 01.07.1986 clearly states that the petitioner is being appointed as a Watchman in the vacancy of the fourth respondent office. This fact substantiates that the post was a sanctioned post. No other record has been produced by the respondents to disprove the same.

6.While that being so, the order passed by the respondents by regularizing him with effect from 01.07.2013, cannot be sustained, since G.O.No.22, dated 28.02.2006, provides that the services of an employee, like the petitioner herein, requires to be regularized on completion of 10 years of service.

7.The learned counsel for the petitioner made a further submission that the petitioner has not completed his probation and that, after completion of probation in future, he would be entitled for regularization from the date of his initial appointment, in view of Rule 10 of the Special Rules for Tamil Nadu Basic Rules read with Rule 13(1) of the Tamil Nadu State and Subordinate Service Rules. If that be so, the petitioner could be granted liberty to approach the respondents, after completion of his probation, seeking for notional regularization from the date of his initial appointment.

8.In the light of the above findings, the impugned order dated 29.10.2013, insofar as it relates to regularizing the petitioner's services from 01.07.2013, is quashed. Consequently, there shall be a direction to the first respondent herein to regularize the petitioner's services from the date of completion of 10 years from 01.07.1982. The first respondent shall endeavour to pass such orders within a period of 12 weeks from the date of receipt of a copy of this order. After completion of his probation, the petitioner is granted liberty to make an



appropriate application to the first respondent, seeking for regularization from the date of his initial appointment and on receipt of the same, the first respondent shall consider it in accordance with law, as expeditiously as possible. The Writ Petition stands thus allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Secretary to Government,
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Fort St. George, Chennai - 9.
2. The Commissioner of Revenue Administration,
Chepauk, Chennai - 5.
3. The District Collector,
Collectorate, Salem - 636 001.
4. The Revenue Divisional Officer,
Mettur, Mettur Taluk,
Salem District.

+1cc to M/s.M.Elango, Advocate, S.R.No.22862

+1cc to the Special Government Pleader, S.R.No.23679

W.P.No.32770 of 2013
and
M.P.No.1 of 2013

SKM(CO)
RGA(19/04/2022)