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W.P.No.17758 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.17758 of 2018

and

W.M.P.Nos.21026 & 21027 of 2018

A.Madhu

... Petitioner

Vs

1.Government of Tamil Nadu,
Rep. By its Principal Secretary,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai – 600 009.

2.The Director/Commissioner,
Rural Development & Panchayat Raj Department,
Panagal Maaligai, Saidapet, Chennai – 600 015.

3.The District Collector,
Dharmapuri District.

4.The Block Development Officer (BP),
Panchayat Union,
Dharmapuri District.

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Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents herein to consider the appeal of the petitioner against the order of the 3rd respondent dated 18.04.2018 and accordingly regularize the services of



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the petitioner in the post of Office Assistant.

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For Petitioner : Ms.A.Pramila
for Mr.P.Nethaji

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

ORDER

The prayer sought for herein is for a writ of mandamus directing the respondents herein to consider the appeal of the petitioner against the order of the 3rd respondent dated 18.04.2018 and accordingly regularize the services of the petitioner in the post of Office Assistant.

2. The petitioner claims that the petitioner was appointed as Pump Operator at Dharmapuri Panchayat Union on 06.08.2003 and he had joined duty on 01.10.2003 and had been continuously working for more than 15 years. While so, there is an Office Assistant post become vacant in the said office. Therefore, in order to seek appointment for the said post, the petitioner had given representation to the 4th respondent, which was forwarded to the 2nd respondent for consideration. However, the 2nd respondent vide proceedings dated 18.04.2018 has rejected the same, though such kind of filling up of the Government Post shall be based on the norms prescribed in this regard by the Government through the



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Government Order in G.O.Ms.No.114 dated 06.05.2000 Rural

Development Department.

3. As against the said order passed by the 3rd respondent District Collector, the petitioner preferred further representation to the 1st respondent on 22.04.2018 and the said representation is pending before the 1st respondent and no orders yet to be passed, therefore, he moved the present writ petition with the aforestated prayer.

4. Heard Ms.A.Pramila, learned counsel appearing for the petitioner who would submit that, under G.O.Ms.No.55 dated 15.06.2006 978 petitioners were appointed in 1982 and they were directed to be regularised and therefore, the same gesture can be extended to the petitioner otherwise atleast the petitioner can be considered for the appointment to the post of Office Assistant which has become vacant in the office of the petitioner where he already been working as Pump Operator for the past more than 16 or 17 years, hence the learned counsel seeks indulgence of this Court by way of mandamus to give a direction to the 1st respondent to consider the representation of the petitioner dated 18.04.2018.



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5. Heard Mr.R.U.Dinesh Raj Kumar, learned Additional

Government Pleader appearing for the respondents who would submit that the OA post merely because it has become vacant in which the petitioner cannot be put in because if it is a public employment as per the Rules and the law declared in this regard time and again by the Hon'ble Supreme Court, application shall be called for from the eligible candidates from open market even for direct recruitment or atleast from the Employment Exchange and based on the merits only such kind of appointment can be made. Merely because the petitioner has been temporarily working as Pump Operator in the office concerned for the past more than 15 years, the petitioner would not be entitled to seek for any such appointment directly to the post of Office Assistant, which is a substantive vacancy.

6. The learned counsel would further submit that, even according to the Government Orders which were issued in this regard for regularising the temporary service rendered by them after completion of 10 years is concerned, based on the G.O.Ms.No.22 Personal and Administrative Department, such kind of gesture also cannot be extended to the petitioner, as the petitioner admittedly joined in the temporary post as



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Pump Operator only on 01.10.2003. Therefore, in the year 2006 since he has not completed the 10 years service even on that score he would not be entitled to seek any permanency or regularisation or fresh appointment.

7. I have considered the said submissions made by the learned counsel for both sides and have perused the materials placed before this Court.

8. The petitioner since has been working for the past more than 15 or 16 years on temporary basis as Pump Operator at the 4th respondent office and his application since has been forwarded to the 3rd respondent and though the 3rd respondent has rejected the same, the petitioner has made request to the 1st respondent through the representation referred to above, hence, this Court feels that the said representation given by the petitioner can be considered and decided on merits by the 1st respondent within a time frame that may be stipulated by this Court.

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

(i) That there shall be a direction to the 1st respondent



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to consider and pass orders on the representation of the petitioner dated 22.04.2018 on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall forward this copy of the order along with the copy of the said representation and on receipt of the same, the needful as indicated above shall be undertaken by the 1st respondent.

10. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking Order : Yes / No

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R. SURESH KUMAR, J.

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