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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.16408 OF 2020

D.Velayutham

... Petitioner

.Vs.

1. The Additional Chief Secretary to Government,
The Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai - 600 009.

2. The Managing Director,
The Chennai Metropolitan Water
Supply & Sewage Board,
No.1, Pumping Station Road,
Chennai-600 002.

3. The Area Engineer,
The Chennai Metropolitan Water
Supply & Sewage Board,
Sholinganallur,
Chennai - 600 119.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent herein in his proceedings Letter No.6960/MW2/2020-3 dated 29.09.2020 and quash the same and consequently, direct the respondents herein to regularize the services of the petitioner on completion of 3 years of service from date of his initial appointment in the erstwhile Village Panchayat i.e., with effect from 25.02.1994 by extending the benefit of the orders passed by the first respondent in G.O.(2D) No.69, Municipal Administration and Water Supplies (MW1) Department dated 28.08.2019, with all consequential service and monetary benefits, within a time frame as deem fit and proper by this Court.



For Petitioners : M/s.G.Bala and Daisy

For Respondents : Mrs.R.L.Karthika
Government Advocate

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O R D E R

Challenge in the writ petition is to the impugned order of the first respondent dated 29.09.2020, in and by which the request of the petitioner seeking regularization from the date of his initial appointment i.e., from 25.02.1994 on completion of three years, came to be rejected and for a consequential direction to the respondents herein to regularize the services of the petitioner on completion of 3 years of service from date of his initial appointment in the erstwhile Village Panchayat i.e., with effect from 25.02.1994 by extending the benefit of the orders passed by the first respondent in G.O.(2D) No.69, Municipal Administration and Water Supplies (MW1) Department dated 28.08.2019, with all consequential service and monetary benefits, within a time frame as deem fit and proper by this Court.

2. The case of the petitioner is that he was appointed as Overhead Tank Operator on 25.02.1991 at Neelangarai Panchayat and served for more than 29 years and on 31.01.2020, he was allowed to retire, on attaining the age of superannuation. It is the claim of the petitioner that the Government had passed G.O. (2D) No.69, Municipal Administration and Water Supplies (MW1) Department dated 28.08.2019, regularizing the services of the one Gajendran and two others on completion of three years from the date of original appointment in Village Panchayat, but the petitioner, who is similarly placed has been regularized only from 13.12.2018. The petitioner, by relying upon the aforesaid Government Order, has submitted a representation to the respondents, which was rejected by the first respondent through the impugned order and challenging the same, the present writ petition has been filed.

3. Heard the learned counsel for the parties and also perused the materials on record.

4. A perusal of the impugned order passed by the first respondent would disclose that the same has been passed on the following reasoning:

(i) There is no genuine appointment issued by the competent authority is available with the petitioner for having appointed from 25.02.1991



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and there is no record for continuous service from 25.02.1991 either in the erstwhile panchayat or in the Board. The Service Register copy furnished by the petitioner with entries from 25.02.1991 is a created record and there is no provision to open SR book for daily wage workers. Service Register is opened only for permanent employees appointed on regular time scale of pay.

(ii) In G.O.Ms.No.103, Municipal Administration and Water Supply (MW) Department dated 08.08.2019, orders were issued to permit the Board to appoint 258 temporary workers with prospective effect from the date of approval of the Board subject to verification of original documents. As per the direction of this Court in Cont.P.No.763 of 2019 in W.P.No.17858 of 2014 filed by Tvl. M.Gajendran, E.Dhanapal and D.Duraisingam, an amendment was made to G.O.Ms.No.103 dated 08.08.2019 by issuing G.O.(2D) No.69, Municipal Administration and Water Supply (MW) Department dated 28.08.2019 permitting the Board to regularize the services of above three persons, the temporary workers on daily wages, notionally from the date of completion of three years from their initial appointment in the erstwhile village panchayat in the time scale of pay with monetary benefits from the date of issue of this G.O., subject to the conditions that this should not be cited as a precedent for the remaining temporary workers and subject to the outcome of Review Application to be filed by the Board against the order of Division Bench dated 01.09.2015.

(iii) Even though the petitioners were not entitled for regularization of services, the Board granted the benefit of regularization of services with effect from 13.12.2018, which has to be considered as a magnanimous act of the Board."

5. It is the claim of the petitioner that one Gajendran and two others were granted regularization from the date of completion of three years from the date of original appointment in the village panchayat, vide G.O.(2D) No.69, MAWS Department dated 28.08.2019 and therefore, the petitioner is also entitled to similar relief. However, the said Government Order was passed in pursuant to the directions passed in Cont.P.No.763 of 2019 in W.P.No.17858 of 2014 and it has been specifically stated that it cannot be cited as a precedent for the remaining temporary



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+1cc to the Government Pleader, S.R.No.18555

W.P.NO.16408 OF 2020

MT (CO)
PBS/19/04/2022