

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NO.18300 OF 2014

A.Mohamed Shereef

... Petitioner

.Vs.

1. The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk, Chennai - 600 005.

2. The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Rural Water Supply Division,
Theni District.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to extend all the benefits granted to the similarly placed 23 workers of various Combined Water Supply Schemes in W.A.Nos.665/2010 and 666/2010 as per the order of this Court dated 10.12.2010 and that of the compliance of the first respondent in proceedings No.53765/WCE/5/2006 dated 08.02.2012 and second respondent in Pro.No.1987/A2/F.Consolidated/2012 dated 09.02.2012 and 11.02.2012 to the petitioners herein duly regularizing their services from 01.04.1998 with monetary benefits from 01.04.2006 within a time frame as may be fixed by this Court.

For Petitioner : Mrs.G.P.Arivuchudar
For M/s.Law Square

For Respondents : Mrs.S.Mekhala

O R D E R

The relief sought for in the present writ petition is to direct the first respondent to extend all the benefits granted to the similarly placed 23 workers of various Combined Water Supply Schemes in W.A.Nos.665/2010 and 666/2010 as per the order of this Court dated 10.12.2010 and that of the compliance of the first respondent in proceedings No.53765/WCE/5/2006 dated 08.02.2012 and second respondent in Pro.No.1987/A2/F.Consolidated/2012 dated 09.02.2012 and 11.02.2012 to the petitioners herein duly regularizing their services from 01.04.1998 with monetary benefits from 01.04.2006 within a time frame.

2. The petitioner states that he was appointed as a Turn Cock (Valve Operator) by the Commissioner/Theni Panchayat Union at Theni vide proceedings dated 31.07.1991. The petitioner states that he joined duty in the department of Operation and Maintenance of Combined Water Supply Scheme. Several other workmen were also employed and joined duty along with the petitioner.

3. Learned counsel appearing on behalf of the petitioner made a submission that all such daily wage employees appointed by the erstwhile Theni Panchayat were absorbed by the Tamil Nadu Water Supply and Drainage Board. The petitioner also was absorbed along with all other similarly placed employees. Thus, the employees were given the benefit of regularization and the case of the petitioner was not considered. Thus, the petitioner is constrained to move the present petition.

4. Learned counsel appearing on behalf of the petitioner relied on the letter of the Commissioner, Panchayat Union, Theni, addressed to the Assistant Engineer, TWAD Board, Maintenance Section, Theni, dated 09.08.2006, wherein the name of the petitioner is also found. Therefore, for the purpose of grant of regularization, the name of the petitioner ought to have been considered by the Board. Contrarily, they have considered the other employees only. Under those circumstances, the petitioner approached the authorities to grant the benefit of regularization, which was not given and therefore, the present writ petition was filed.

5. Learned counsel appearing on behalf of the respondents objects the contention raised by the petitioner by stating that

the petitioner is not at all working in the Board's services. The petitioner was not absorbed by the TWAD Board. Therefore, he was not considered with all other persons, who were considered for grant of regularization based on the award of the Inspector of Labour under the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981. In view of the fact that the petitioner has not served in the Board's services, the relief as such sought for in the present writ petition deserves to be rejected.

6. This Court is of the considered opinion that the existence of the petitioner cannot be decided in this writ petition. Whether the petitioner was absorbed by the TWAD Board or not is to be established through documents and evidence. Such an adjudication cannot be undertaken by the High Court in writ proceedings under Article 226 of the Constitution of India. Thus, the petitioner has to approach the competent forum for the purpose of establishing the facts and circumstances and the nature of employment provided to him. In the present case, the learned counsel appearing on behalf of the respondents states that the petitioner cannot be compared with other 23 employees, who were absorbed pursuant to the orders of this Court. The petitioner is not even working in the Board and therefore, the writ petition cannot be considered. In view of the facts and circumstances, the petitioner is at liberty to approach the competent forum, if he could able to establish his services with the erstwhile Theni Panchayat and with the TWAD Board.

With this liberty, this Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gm

To

1. The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
No.31, Kamarajar Salai,
Chepauk, Chennai - 600 005.

2. The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
Rural Water Supply Division,
Theni District.

+1cc to Mrs.S.Mekhala, Advocate, S.R.No.40945

+1cc to the Government Pleader, S.R.No.38845

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PMK(CO)
PBS/13/07/2022