



W.P.(MD)No.7741 of 2020

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 16.12.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**W.P.(MD)No.7741 of 2020**  
**and**  
**W.M.P.(MD)No.7227 of 2020**

M.Muniyandi

: Petitioner

Vs.

- 1.The District Collector,  
Madurai District,  
Madurai.
- 2.The Block Development Officer,  
Sedapatti Union Office,  
Sedapatti Post.  
Peraiyur Taluk.  
Madurai -625 705.
- 3.The Assistant Director of Panchayat,  
District Collectorate,  
Madurai-625 020.
- 4.The President,  
Athankaraipatti Panchayat,  
Sedapatti Panchayat Union (Elumalai Post)  
Peraiyur Taluk,  
Madurai.

: Respondents



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**PRAYER :** Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to regularize the petitioner service as overhead tank operator for Athankaripatti Panchayat union from 01.12.2014 and pay the arrears of salary due to the petitioner along with service benefits thereon.

For Petitioner : Mr.B.Prasanna Vinoth  
For Respondents : Mr.K.Christy Theboral  
Additional Government Pleader

### **ORDER**

This writ petition has been filed to direct the respondents to regularize the petitioner service as Overhead Tank Operator for Athankaripatti Panchayat union from 01.12.2014 and pay the arrears of salary due to the petitioner along with service benefits thereon.

2. The learned counsel appearing for the petitioner would submit that the petitioner was appointed by the members of Aathakaraipatti panchayat Union, vide resolution, dated 05.12.2014 as full time employee



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on 01.12.2014 to operate OTH motor and to maintain the Overhead Water Tank. The petitioner monthly salary was fixed at Rs.2,210/- by the said village Panchayat and usually deposit the same in the Indian Bank account and the petitioner discharged his duty faithfully without any complaint. For the service of the petitioner more than 500 families are benefited. The said salary is the only source of income for the petitioner's family. While being so, the said Panchayat Union had stopped the salary from the month of December 2015, though the petitioner continuously discharging his duty. He sent a representation to the official of the concerned department to release his salary, however, no order was passed and hence, the petitioner approached the District Labour Court and filed a petition in C.P.No.110 of 2017 under Section 33(2) of ID Act. The District Labour Court passed award a sum of Rs.50,830/- for the period from December 2015 to October 2018 and the petitioner received a sum of Rs.12,967/- on 03.06.2020 and balance amount of Rs.37,863/- yet to be received from the Panchayat Union. However, the petitioner service was not regularised. For regularization of petitioner's service, the petitioner filed the present writ petition with the aforesaid prayer.



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3. The learned counsel for the petitioner submitted that though the petitioner continuously worked for more than 480 days from 2015 to 2018, till date the service of the petitioner was not regularised, is not sustainable one. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that as per the Labour Court award, the first instalment of Rs.12,967/- was paid to the petitioner on 03.06.2020 and the remaining sum of Rs.37,863/- was paid in two instalments on 03.08.2020 and 06.08.2020. The said amount was paid to the petitioner only as a remuneration for the service rendered by him. Having cleared the dues payable to the petitioner, the obligation and responsibility of the Panchayat had ended. The petitioner is no way involved in the administration of the Panchayat as on date. The petitioner has been stopped from service and he has not carried out any work in the respondent Panchayat right from 2018 itself. Hence prayed for dismissal.



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5. Heard Mr.B.Prasanna Vinoth, learned counsel for the petitioner and Mrs.K.Christy Theboral, learned Additional Government Pleader appearing for the respondents.

6. The petitioner claimed that the petitioner was appointed by the village Panchayat based on the resolution as OTH motor operator and till 2015 he was received salary from the Panchayat. After 2015 he was not received any salary, thereby, he raised industrial dispute in C.P.No.110 of 2017 under section 33(2) of Industrial Dispute Act. The Labour Court passed award in favour of the petitioner to the extent of Rs.50,830/- Though the petitioner claimed that he received the first instalment, however, the counter affidavit reveals that the first instalment of Rs.12,967/- was paid to the petitioner on 03.06.2020 and the remaining sum of Rs.37,863/- was paid in two instalments on 03.08.2020 and 06.08.2020. Hence, it is clearly proved that the entire amount awarded by the Labour Court was received by the petitioner. However, the grievance of the petitioner is that he want regularization from the respondents.



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7. On perusal of the counter affidavit reveals that after Labour Court award, from 2018 onwards the petitioner has not carried out any work and he stopped to attend the work and in view of the disputed question of fact, this Court cannot issue any affirmative direction in favour of the petitioner and hence, the prayer sought for in this writ petition cannot be granted and further, there is no provision available for regularization of OTH motor operator appointed by the village Panchayat. In the absence of provision either in the Panchayat or in the Government Orders, the prayer sought for in this writ petition for regularization cannot be granted. Hence, no affirmative directions can be issued in favour of the petitioner.

8. Accordingly, this writ petition is dismissed. However, liberty is granted to the petitioner to work out his remedy in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

**16.12.2022**

Index : Yes / No  
Speaking Order : Yes / No  
RM



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**M.DHANDAPANI,J.**

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