



W.A(MD)No.638 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.06.2022

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CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

W.A(MD)No.638 of 2022
and C.M.P.(MD) No.5301 of 2022

C.K.Jeyaraj

... Appellant/Petitioner

Vs.

1.The Secretary to Government,
Rural Development Department,
Secretariat, Fort St. George,
Chennai – 9.

2.The District Collector,
Kanyakumari District,
Nagercoil.

3.The Commissioner,
Melpuram Panchayat Union,
Kanyakumari District.

4.The President,
Vanniyur Village Panchayat,
Vanniyur Panchayat,
Malaiyadi Post,
Kanyakumari District.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 13.04.2022 in W.P(MD)No.20571 of 2019 and allow the Writ Appeal.

For Appellant

: Mr.S.Govindan



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For Respondents 1 & 2 : Mr.S.P.Maharajan
Special Government Pleader

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JUDGMENT

(Judgment of the Court was delivered by S.S.SUNDAR,J.)

Challenging the order of learned Single Judge dated 13.04.2022, made in W.P.(MD) No.20571 of 2019, the petitioner in the writ petition has preferred the above appeal.

2. Heard Mr.S.Govindan, learned counsel appearing for the appellant and Mr.S.P.Maharajan, learned Special Government Pleader, who accepts notice for the respondents 1 and 2.

3. The petitioner has come before this Court suppressing the material facts relating to his appointment. Though the petitioner was appointed on temporary basis as Over Head Tank Operator/Plumber, the petitioner has stated before us that he was appointed as a full-time Plumber on daily wages basis by the President, Vanniyur Panchayat as per the resolution of the Panchayat due to existence of service.

4. The petitioner stated that he was in service for 23 years under the supervision of the President of Vanniyur Panchayat. His service was not regularized in the regular time scale of pay. The petitioner contends that he is entitled to regular time scale of pay on the basis that



being a differently abled person he is entitled for regular absorption as per G.O.Ms.No.151, dated 16.10.2008. When a representation was made before the District Collector, it was rejected on the ground that the said Government Order is not applicable to the petitioner, who was just employed as Over Head Tank Operator, which is not a sanctioned post carrying any time scale of pay.

5. From the typed set of papers, it is seen that the petitioner was appointed on 18.08.1997 as a plumber on daily wages. The assurance given to the petitioner is that he will be paid a consolidated pay as per the decision of the District Collector vide G.O.Ms.No.119 Rural Development Department, dated 10.05.2000, by which the District Collector was directed to enhance the consolidated pay to all the daily wagers, who are engaged as pump operator or doing jobs in local body. It is not in dispute that the petitioner was receiving only wages on consolidated pay as determined by the District Collector periodically. Therefore, the contention of the petitioner that he was employed in a permanent job and that he is entitled to time scale pursuant to the Government Order issued by the Government vide G.O.Ms.No.151 dated 16.10.2008 on completion of two years of service cannot be countenanced.



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6. The District Collector, while rejecting the representation of the petitioner has categorically held that G.O.Ms.No.151, dated 16.10.2008, relied upon by the petitioner is not applicable as the petitioner is not employed in any position carrying time scale of pay. The District Collector has specifically stated that he is not engaged in a permanent job and that therefore, the petitioner is not entitled to regular absorption in terms of G.O.Ms.No.151, dated 16.10.2008. Learned Single Judge after elaborately considering the documents produced by the petitioner has rejected the prayer.

7. It is not in dispute that the petitioner is not employed pursuant to any selection process. He was just employed as an Over Head Tank Operator, which is not a sanctioned post in the village. The petitioner was engaged as a temporary worker in a non-sanctioned post on consolidated pay as fixed by the District Collector and such pay was revised from time to time. The petitioner is trying to take advantage of the Government Order as he is a differently abled person. When it is not in dispute that the engagement of the petitioner was on daily wage basis as per periodical revision of salary by the District Collector, the claim of the petitioner for regular scale of pay and permanent absorption cannot be considered.



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8. Though learned counsel for the appellant relied on certain judgments of this Court and the Hon'ble Supreme Court, none of judgment is applicable to the present case having regard to the facts therein. The respondents have filed their counter affidavit in the case. But, learned counsel for the petitioner has not enclosed the counter affidavit filed by the respondent. However, an unfair submission was made to the effect that the respondents have not filed counter and therefore, the Writ Appeal may be adjourned atleast for ascertaining the specific stand taken by the respondents on the merits of case.

9. On instructions, learned Additional Government Pleader submits that the petitioner did not receive revised consolidated pay on his own. Therefore, this Court is not inclined to give any direction to the respondents as to the amount, the petitioner is entitled in this case. In case the petitioner makes a representation to the respondents requesting disbursement of enhanced consolidated pay, the respondent may consider the same.

10. In view of the above, the Writ Petition is Dismissed. No Costs. Consequently, connected Miscellaneous Petition is also dismissed.

[S.S.S.R.,J] [S.S.Y.,J.]
30.06.2022

Index :Yes/No
Internet :Yes/No
sj



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S.S.SUNDAR,J.
and
S.SRIMATHY,J.

sj

To

- 1.The Secretary to Government,
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