



W.P.(MD)No.10964 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.10964 of 2020

and

W.M.P.(MD)No.9624 & 9625 of 2020

C.Raju

... Petitioner

Vs.

1. The Principal Secretary,
State of Tamil Nadu,
Municipal Administration & Water Supply Department
(Town Panchayat),
Secretariat,
Fort Saint George,
Chennai – 600 009.
2. The Director of Town Panchayat,
Kuralagam,
Chennai – 600 108.
3. The District Collector,
Kanyakumari District at Nagercoil.
4. The Assistant Director of Town Panchayat,
Kanyakumari District at Nagercoil.

... Respondents



W.P.(MD)No.10964 of 2020

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 4th respondent in his proceeding No.O.Mu.No.519/2009/Pa.2 dated 26.02.2009 and to quash the same and direct the respondents to appoint the petitioner as Work Inspector or Overseer in the existing vacancies.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order passed by the 4th respondent, dated 26.02.2009 and to quash the same and consequently direct the respondents to appoint the petitioner as Work Inspector or Overseer in the existing vacancies.

2. The case of the petitioner is that he has completed I.T.I. Civil Draughtsman (NCVT). As per the Resolution of the Methukummal Town Panchayat Resolution Number 247, dated 06.02.1998, he was appointed as



W.P.(MD)No.10964 of 2020

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Technical Assistant by the Junior Engineer and he has rendered more than five years continuous service. Even after completion of five years continuous service, his service was not regularised. Hence, he has filed a writ petition in W.P.(MD).No.23968 of 2003 before this Court, which was allowed on 27.08.2003 and directed the Director of Panchayat and the District Collector to consider the petitioner's representation dated 02.09.2002 and pass suitable orders. After several requests made by the Technical Assistants and the recommendation made by the Director of Town Panchayat, the Government of Tamil Nadu has passed the G.O.(Ms).No.183, dated 19.09.2008, by relaxing the age limit conditions. However, the petitioner's name was not send for regularisation. Hence, he has filed a writ petition before this Court in W.P.(MD).No.7219 of 2009 and this Court, by order dated 21.10.2011, allowed the writ petition and directed the petitioner to submit a copy of the representation dated 03.02.2009 to the Secretary, Municipal Administration and Water Distribution (Panchayat), Fort St. George, Chennai along with the copy of the order and on receipt of the representation, the Secretary shall consider the same and to pass a reasoned order. Pursuant to the same, the petitioner has sent a detailed representation



W.P.(MD)No.10964 of 2020

to the Secretary. But the same has not been considered so far.

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3. It is the further case of the petitioner that similarly placed persons worked in several Panchayats as Technical Assistant have filed W.P.No.5203 of 2016 before this Court and the same was allowed on 03.03.2016 and suitable direction given to the first respondent to absorb the petitioners in the existing vacancies as Work Inspectors. Thereafter, the persons, who were served as Technical Assistants were absorbed and their services were regularised. Hence, the petitioner has sent a detailed representation dated 15.12.2016, to the respondents. But the respondents have not considered the same. Therefore, the petitioner has filed a writ petition in W.P.(MD).No.2040 of 2017 before this Court seeking direction to the respondents to consider the petitioner's representation dated 15.12.2016. While so, the first respondent has rejected the petitioner's request by the impugned order dated 27.02.2017, on the ground that the petitioner worked as a Technical Assistant for a short period and there is no Technical Assistant post available. Challenging the same, the petitioner has filed a writ petition in W.P.(MD).No.7961 of 2017. This Court, by order dated



W.P.(MD)No.10964 of 2020

WEB COPY

08.04.2019, disposed the writ petition on the ground that the claim of the petitioner already rejected in the year 2009 itself by the impugned order of the fourth respondent, dated 26.02.2009. Challenging the same, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner would submit that there are two rejection orders in respect of the petitioner and one is in the year 2017 and prior to that, there was an another impugned order dated 26.02.2009. Without considering the G.O.(Ms.).No.183, dated 19.09.2008, the respondents 1 and 4 mechanically rejected the petitioner's request. He would further submit that similarly situated persons like that of the petitioner were absorbed and regularised, on the basis of G.O.(Ms.).No.183, dated 19.09.2008. However, the petitioner's request was rejected, which is not sustainable one. Hence, he prayed for allowing this writ petition.

5. Per contra, the learned Additional Government Pleader appearing for the respondents would submit that though the petitioner claimed that he was appointed as Technical Assistant, as per the Resolution



W.P.(MD)No.10964 of 2020

WEB COPY

Number 247 of the Methukummal Town Panchayat, dated 06.02.1998, however, the same Resolution will not confer any right seeking appointment and no appointment order has been produced before this Court. Subsequently, the petitioner has filed several writ petitions for regularisation of service in the Town Panchayat. However, all these orders went against him.

6. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

7. Without any appointment order how the petitioner seeks for regularisation of service. In the case of *the Secretary, State of Karnataka vs. Uma Devi* reported in **2006(4) SCC 1**, it has been observed that in case an employee has served for 10 years as on 2006, regularisation has to be made. There is no provision available for regularisation of service of the petitioner. Hence, the prayer sought for by the petitioner cannot be granted and the writ petition is dismissed. However, if law permits liberty is granted to the petitioner to work out the remedy in the manner known to law. No



W.P.(MD)No.10964 of 2020

costs. Consequently, the connected Miscellaneous Petitions are closed.

WEB COPY

22.12.2022

Index : Yes / No

Speaking Order : Yes / No

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W.P.(MD)No.10964 of 2020

WEB COPY

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W.P.(MD)No.10964 of 2020

M.DHANDAPANI,J.

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W.P.(MD)No.10964 of 2020

22.12.2022