



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.21473 of 2018

and

W.M.P. (MD) .No.19364 of 2018

N.Karuppasamy

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Commissioner,
Department of Social Defence,
No.300, Purasaivakkam Highway,
Kellis, Chennai - 600 010.

3.The District Employment Officer,
District Employment Exchange,
Thoothukudi District.

4.The Superintendent,
Government Children Home for Boys,
Thattaparai - 628 304,
Thoothukudi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the fourth respondent relating to impugned order of rejection passed by him in his proceedings No.0293/A1/2017, dated 21.08.2017 and the consequential rejection of appeal passed by the second respondent vide his impugned proceedings in No.2292/A3/2018, dated 21.03.2018 and quash the same as illegal and arbitrary and consequently directing the respondents 2 to 4 to absorb the petitioner in the post of 'Hair Dresser' or 'Sanitary Worker' or 'Gardener' in Juvenile Home, Thattaparai or in any of the equivalent post in the fourth respondent District by considering his 18 years of service rendered in the fourth respondent home within the time limit that may be stipulated by this Court.



For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.S.Kameswaran,
Government Advocate (Civil Side).

ORDER

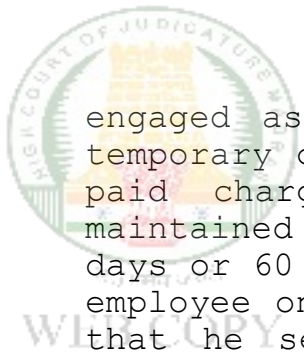
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This Writ Petition has been filed to quash the impugned order dated 21.08.2017 and the consequential rejection order dated 21.03.2018 with a consequential prayer to absorb the petitioner in the post of 'Hair Dresser' or 'Sanitary Worker' or 'Gardener' in Juvenile Home, Thattaparai or in any of the equivalent post in the fourth respondent District by considering his 18 years of service rendered in the fourth respondent home.

2. The brief facts of the case are that the petitioner is hailing from socially and educationally backward community coming under the class of Most Backward Category. The petitioner was basically a Hair Dresser by profession and the petitioner was engaged in the Hair Dressing for the children staying and studying in the fourth respondent Government Children Home for Boys.

3. The contention of the petitioner is that he was serving for more than ten years and he is entitled to regularization under time scale of pay. The petitioner has registered his name in the Employment Exchange on 09.01.2008 and Registration Number is 68/2008. The fourth respondent has issued an experience certificate stating that the petitioner was working for more than nine years. The petitioner submitted a representations on 19.02.2008, 15.02.2008 and 19.03.2008 to the first respondent and the third respondent to absorb the petitioner in the sanctioned post for Hair Dresser or Sweeper or both. The third respondent vide communication dated 29.01.2009 informed that there was no vacancy available for the petitioner's qualification and whenever the vacancy arises the same will be intimated to the petitioner, the respondents would consider based on the educational qualification, age and seniority. Since the respondents have not consider the petitioner's claim and the petitioner has filed this Writ Petition relying on the judgment rendered in the Secretary, State of Karnataka and others Vs. Umadevi and others reported in 2006 4 SCC Page 1.

4. The fourth respondent has filed a counter affidavit stating that the petitioner was engaged for Hair Dresser and he would visit the home once in 45 days or 60 days. The petitioner is not regularly engaged. There are no records available to show that the petitioner has served as a Hair Dresser for more than 20 years. The fourth respondent has submitted a representation and it was suitably answered. The fourth respondent also submitted that the petitioner was directed to explain under what circumstances the experience certificate was issued. The petitioner's claim cannot be granted and the claim ought to be rejected. Since the petitioner was



engaged as a Hair Dresser in the children Homes for Boys either temporary or contract basis, the petitioner was not paid salary but paid charges based on per head. No attendance register was maintained by the petitioner and the petitioner visited once in 45 days or 60 days. The petitioner was not a daily wage employee or an employee on contract basis. There are no records available to show that he served as a barber for the last 18 years. Hence the petitioner is not entitled to and the respondents prayed to dismiss the Writ Petition.

5. Heard Mr.G.Thalaimutharasu, learned counsel for the petitioner and Mr.S.Kameswaran, learned Government Advocate (Civil Side) for the respondents.

6. It is seen from the records that the petitioner was engaged to do hair cut work for the inmates in the Government Children Homes for Boys. Admittedly, there was no appointment order and the petitioner was not paid consolidated payment. The payment that was granted to the petitioner is based on the number of head for cutting the hair, that too he was engaged once in 45 or 60 days. Since there is no continuous employment, no full time employment, this Court is of the considered opinion that the claim of the petitioner cannot be entertained and the petitioner is not entitled to any relief. Hence the petitioner's claim is liable to be rejected.

7. With the above observations, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (TG&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

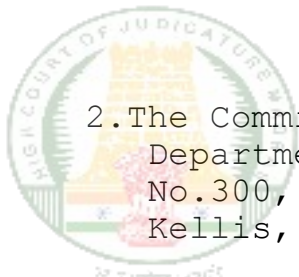
Nsr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,
Thoothukudi District,
Thoothukudi.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Commissioner,
Department of Social Defence,
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Kellis, Chennai - 600 010.

3.The District Employment Officer,
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4.The Superintendent,
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+1 CC to M/s.SPL GP (SR-13899[F] dated 23/03/2022)

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RD(13.04.2022) 4P 6C