



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 11.04.2022
CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

WEB COPY

W.P. (MD)No.9168 of 2014
and
M.P. (MD)No.1 of 2014

Sundaravel

... Petitioner

VS

1.The Chief Engineer,
Public Works and Water Resources Department,
Madurai Region, Madurai.

2.The Superintending Engineer,
Public Works and Water Resources Department,
Special Project Circle,
Tirunelveli District.

3.The Executive Engineer,
Public Works and Water Resources Department,
Special Project Circle,
Ambasamuthiram,
Tirunelveli District.

... Respondents

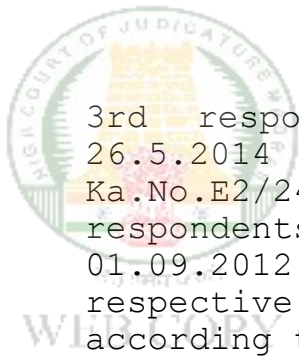
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 3rd respondent, vide his proceedings No.E1/241-1/2014, dated 26.5.2014 and consequential letter issued by the 3rd respondent in Ka.No.E2/241/2014, dated 26.5.2014 and to quash the same and consequently, to direct the respondents to regularize the service of the petitioner from 01.09.2012 to 01.12.2013 and to disburse the arrears of salary and respective increments from 01.09.2012 to 01.12.2013 with interest according to the existing pay structure to the petitioner.

For Petitioner : Mr.A.M.Sundaravel
Party-in-person

For Respondents : Mr.S.Kameswaran
Government Advocate (Civil side)

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the
<https://hcservices.ecourts.gov.in/hcservices/>



3rd respondent, vide his proceedings No.E1/241-1/2014, dated 26.5.2014 and consequential letter issued by the 3rd respondent in Ka.No.E2/241/2014, dated 26.5.2014 and consequently, to direct the respondents to regularize the service of the petitioner from 01.09.2012 to 01.12.2013 and to disburse the arrears of salary and respective increments from 01.09.2012 to 01.12.2013 with interest according to the existing pay structure to the petitioner.

2. The brief facts of the case are that the petitioner joined as Mazdoor on 05.04.1977. Thereafter, he was absorbed in the regular time scale of pay in the cadre of work Inspector Grade II and posted in Cheranmahadevi Sub Divisional Office. The case of the petitioner is that the respondents shifted the Poigai Reservoir, to Thiruvallur Division. Since the said project was transferred to faraway place, the petitioner was transferred to Special Project Sub Division, Cheranmahadevi under the control of Special Project Division Tirunelveli, vide order, dated 30.08.2012. The petitioner challenged the said transfer order in W.P. (MD) No.13349 of 2012 and this Court, vide order, dated 22.08.2012, has dismissed the Writ Petition. Thereafter, the petitioner joined as Work Inspector II on 02.12.2013 in the Special Project Division, Ambasamuthiram based on the High Court's order. However, the petitioner has not joined the Cheranmahadevi Division from 01.09.2012 to 01.12.2013.

3. The third respondent has filed a counter affidavit stating that for the said period, the petitioner has not even submitted any leave applications. Therefore, the said period cannot be regularized. Moreover, the petitioner has challenged this order and there is no stay. Thereafter vide order 12.03.2014 this Court has directed the first respondent to consider the representation of the petitioner, dated 11.12.2013 and pass orders. The contention of the respondent is that there was no hindrance for the petitioner to join duty on 31.08.2012 and hence the respondents prayed to dismiss the Writ Petition.

4. Heard Mr.A.M.Sundaravel, Party-in-person and Mr.S.Kameswaran, the learned Government Advocate (Civil side) for the respondents and perused the records.

5. The transfer in incidence of service. Since the petitioner was working in a project, which was transferred to some faraway place, the respondents in order to accommodate the petitioner has transferred to a nearby project. But the contention of the petitioner is that the respondents have not allowed the petitioner to join the duty. The respondents have not denied this allegation in their counter. Therefore, this Court is of the considered opinion that the said period ought to be regularized. Hence, this Court is directing the respondents to regularize the said period and pay salary to the said period. However, it is made clear that the petitioner is not entitled to any interest.



6.With the above direction, the Writ Petition is disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

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 Chief Engineer,
Public Works and Water Resources Department,
Madurai Region, Madurai.
- 2.The Superintending Engineer,
Public Works and Water Resources Department,
Special Project Circle,
Tirunelveli District.
- 3.The Executive Engineer,
Public Works and Water Resources Department,
Special Project Circle,
Ambasamuthiram,
Tirunelveli District.

+1 CC to M/s.SPL.GP. (SR-18113[F] dated 12/04/2022)

W.P.(MD)No.9168 of 2014
11.04.2022

SS(16/06/2022) 3P 5C