



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .Nos.3210 and 5144 of 2015

and

W.M.P. (MD) .Nos.1 and 1 of 2015

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W.P. (MD) .No. 3210 of 2015

T.Senthilkumar

... Petitioner

Vs.

1.The Under Secretary to
Government of India,
Ministry of Rural Development,
Department of Drinking Water
And Sanitation,
8th Floor,
Pariyavaran Bhavan,
CGO Complex,
Lodi Road,
New Delhi - 110 003.

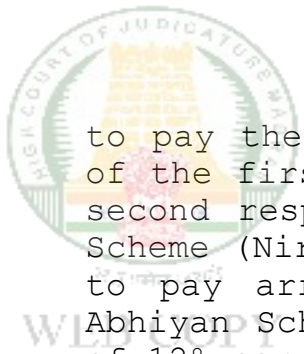
2.The Director (CRSP),
Government of India,
Department of Drinking Water
And Sanitation,
12th Floor,
Pariyavaran Bhavan,
CGO Complex, Lodi Road,
New Delhi - 110 003.

3.The Director,
Directorate of Rural Development
And Panchayats,
Panagal Building, Saidapet,
Chennai - 15.

4.The District Collector - cum - Chairman,
District Rural Development Agency,
Thanjavur District,
Thanjavur.

... 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 relating to the impugned order passed by the third respondent in his proceedings Na.Ka.No.69454/2014/Mu.Su.The/1 dated 06.02.2015 and quash the same as illegal and arbitrary and consequently directing the respondents



to pay the petitioner a consolidated salary as per the proceedings of the first respondent dated 24.08.2010 and the proceedings of the second respondent dated 07.09.2010 under Total Sanitation Campaign Scheme (Nirmal Bharat Abhiyan) and further directing the respondents to pay arrears of salary w.e.f. 24.08.2010, under Nirmal Bharat Abhiyan Scheme and arrears of salary with the interest at the rate of 12% per annum within a time frame as fixed by this Court.

W.P. (MD) .No. 5144 of 2015

T.Senthilkumar

... Petitioner

Vs.

1.The Director SBM (G),
Government of India,
The Ministry of Drinking Water and Sanitation,
Pariyavaran Bhavan,
B-1 Wing, 8th, 9th and 12th Floor,
CGO Complex,
Lodi Road,
New Delhi - 110 003.

2.The Director,
Directorate of Rural Development,
and Panchayats,
Panagal Building,
Saidapet, Chennai - 15.

3.The District Collector - cum - Chairman,
District Rural Development Agency,
Thanjavur District,
Thanjavur.

4.The Project Director,
District Rural Development Agency,
Thanjavur District,
Thanjavur.

5.K.Thillaimani

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the fourth respondent in his proceedings Na.Ka.No.2630/2014/A8 dated 12.03.2015 and quash the same as illegal.

For Petitioner

: Mr.B.Saravanan

For Respondents

: Mrs.D.Farjana Ghoushia,
Special Government Pleader.
(In both Writ Petitions)



COMMON ORDER

The petitioner was appointed as a District Project Co-Ordinator by the proceedings of the third respondent in Na.Ka.No.5376/2005/A4 dated 05.06.2005 and the petitioner was working under the scheme called "Our Village, SGSRY and Total Sanitation Campaign".

2. The appointment of the petitioner was on temporary basis on payment of consolidated pay of Rs.3000/-. Subsequently, the Project Director, District Rural Development Agency, Thanjavur District passed an order dated 05.08.2006 appointing the petitioner as a District Project Co-Ordinator of Thanjavur District under the scheme of Total Sanitation Campaign which is called as Nirmal Bharat Abhiyan Scheme (NBA) on temporary basis for payment of consolidated salary of Rs.5000/- per month for a period of five months. The said scheme is Central Government sponsored scheme with a participation of the State Government by contributing 20% fund.

3. Later, the petitioner's consolidated payment was increased to Rs.6500/- then to Rs.10,000/- with a travelling allowance increased from Rs.1000/- to Rs.2,000/-. As of now, the petitioner is receiving Rs.12,000/- which includes consolidated payment with travelling allowances.

4. The petitioner relied on the Central Government Circular to the project dated 24.08.2010 where it has been stated in the case of District Water and Sanitation Mission Staffing, the minimum experience required was increased from two years to five years and the consolidated monthly payment is in the range of Rs.20,000/- to Rs.30,000/-.

5. The grievance of the petitioner is inspite of such pay range, the respondents are paying the petitioner only Rs.12,000/- including travelling allowances. Aggrieved by the same, this Writ Petition has been filed to quash the impugned proceedings dated 06.02.2015 and direct the respondents to pay the consolidated salary as stated in the proceedings of the Central Government dated 24.08.2010.

6. The respondents had filed a counter statement stating the petitioner was appointed on temporary basis by the District Rural Development Agency, Thanjavur District on a need basis as per then prevailing sanitation coverage Thanjavur District. The petitioner was not appointed through the Selection Committee and therefore, the petitioner was not entitled to pay range as stated in the proceedings dated 24.08.2010.



7. Heard Mr.B.Saravanan, learned counsel for the petitioner and Mrs.D.Farjana Ghoushia, learned Special Government Pleader for respondents.

8. On perusal, the proceedings of the Central Government dated 24.08.2010, it has been stated that the experience shall be increased from two years to five years and the person should be selected by the Committee consisting of State level representatives approved by the State Government. The Committee consists of Director, Additional Deputy Secretary to the Department would be a member, an expert would be another member and two experts to be nominated by the Government of India would be member. Thus, the Committee consists of five members. In the circular, it has been stated that the monthly consolidated payment is Rs.20,000/- to Rs.30,000/-.

9. The contention of the petitioner is that the petitioner was appointed on 20.06.2005 and now he was serving until 2015. Therefore, he is having more than five years experience. Simply because the Committee has not appointed the petitioner, the respondents cannot deny the increased consolidated payment of Rs.20,000/- to Rs.30,000/-. This Court is of the considered opinion that the petitioner was appointed prior to 2010 and was appointed as per the prevailing circular at that point of time. In the present circular only it has been stated that the appointment shall be through selection committee, then it applies only to new recruitments. Therefore the respondents cannot be allowed to say that since the petitioner was not appointed through Selection Committee, the petitioner is not entitled to the pay range. The subsequent circular cannot be shown as one of the reasons for denying increased consolidated payment. Therefore, this Court is of the considered opinion that the petitioner is entitled to the increased range of salary from the year 2010 onwards.

10. The second Writ Petition in W.P. (MD) No. 5144 / 2015 is filed by the same petitioner challenging the appointment of another person namely Thilaimani in the post of Assistant District Coordinator. The contention of the petitioner is that only one District Co-Ordinator post is sanctioned and the petitioner is holding the said post. Since the petitioner has filed the Writ Petition in W.P.(MD).No.3210 of 2015 challenging the payment of salary, the respondents have deliberately appointed in an unsanctioned post and paying salary.

11. The respondents with a vindictive attitude has appointed another person in the same post by designating Additional District Co-Ordinator. By creating this post and by appointing the fifth respondent, the respondents are curtailed the petitioner's entitlement to the consolidated payment of Rs.20,000/-.



12. On perusal of this scheme under 7.4.4, the list of post has been stated, wherein only one "District Coordinator" post is sanctioned. The second post is "Assistant Coordinator Technical" and there is no post of "Additional District Coordinator" post at all. Therefore, this Court is of the considered view the appointment of the fifth respondent is without any sanctioned post. The fifth respondent is not appearing before this Court in spite of notice and inspite of the name of the fifth respondent is appearing in the list. Therefore, this Court is setting aside the appointment order of the fifth respondent which has been appointed without any sanctioned post. The respondents are directed to pay the arrears of salary from 2010 onwards and continue to pay in the pay range of Rs.20,000/- to Rs.30,000/-. At this point the Learned Special Government Pleader submitted that, as per oral instructions from the respondents, the fifth respondent has resigned the post and left the service.

13. With these directions, both the Writ Petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

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/ /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 Under Secretary to
Government of India,
Ministry of Rural Development,
Department of Drinking Water And Sanitation,
8th Floor, Pariyavaran Bhavan,
CGO Complex, Lodi Road, New Delhi - 110 003.

2.The Director (CRSP),
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7.The Project Director,
District Rural Development Agency,
Thanjavur District, Thanjavur.

+1 CC to M/s.B.SARAVANAN, Advocate (SR-5833[F] dated 14/02/2022)

+1 CC to M/s.SPL GP (SR-5888[F] dated 14/02/2022)

W.P. (MD) .Nos.3210 and 5144 of 2015
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MGJ(22.02.2022) 6P 10C