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W.P No.3258 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.3258 of 2021

and

WMP.No.3705 of 2021

P.Kumar

...

Petitioner

Vs.

1. The State of Tamil Nadu represented
by its Secretary, Health and Family
Welfare Department Chief Secretariat,
ST Fort George,
Chennai Pincode - 600009.
2. The Director of Public Health and
Preventive Medicine, D.M.S. Campus,
Teynampet No. 359,
Anna Salai, Chennai Pincode - 600006
3. The Deputy Director Department
of Public Health and Preventive Medicine
Old Govt. Hospital,
Chennagam Road,
Tiruvannamalai District Pin - 606601
4. The Block Medical Officer,



W.P No.3258 of 2021

Upgrade Primary Health Centre,
Kommanandal, Polur Taluk
Tiruvannamalai District - 606904 ...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the 1st and 2nd respondents to regularise the petitioners service as a sanitary worker with back wages and with retrospective effect from dated 01.02.2008 after getting service particulars etc., from 3rd to 4th respondents and considering the petitioner representation dated 03.11.2020.

For Petitioner : Mr.G.Mutharasan

For Respondents : Mr.T.Chezhiyan,
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking the issuance of a Writ of Mandamus to direct the 1st and 2nd respondents to regularise the petitioners service as a sanitary worker with back wages and with retrospective effect from dated 01.02.2008 after getting service particulars etc., from 3rd to 4th respondents and considering the petitioner representation dated 03.11.2020.



W.P No.3258 of 2021

2. Heard, Mr.G.Mutharasan, learned counsel for the petitioner and Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents and perused the materials available on record.

3. The petitioner has been working as a sanitary worker under the 4th respondent. He joined as Sanitary worker in the year 2008 in NRHM RCH Scheme. He has been working in the Primary Public Health Government Hospital converted as Government Hospital, thereafter it is called as Government Hospital Primary Health Centre and continued to work in the same hospital as NRHM RCH (scheme) as Sanitary Worker. Till date the petitioner has not been regularised, hence the petitioner has given representation on 03.11.2020 to the respondents 1 to 4 to regularise his service as sanitary worker with back wages with retrospective effect from dated 01.02.2008, after getting service particulars from 3rd & 4th respondents. Hence this Writ petition.

4. Mr.G.Mutharasan, the learned counsel for the petitioner submitted that the petitioner is entitled to the benefits of G.O.Ms. No.22



W.P No.3258 of 2021

Personnel and Administrative Reforms Department dated 28.02.2006.

The said G.O.Ms. No.22 Personnel and Administrative Reforms Department dated 28.02.2006, was issued to regularise the services of persons who were working on temporary basis on their completion of ten years of service in all government department /offices. In support of his contention he relied the order of this Court in W.P.Nos.14199 batch dated 12.01.2022 and the relevant paragraph is extracted as hereunder:

“62. As per G.O.Ms.No.22, Personnel and Administrative Reforms (F)Department dated 28.02.2006, wherein it is stated that only full time daily wage employees were directed to be regularized on completion of 10 years of continuous service as on 01.01.2006 and G.O.Ms.No.47 School Education (R1) Department, dated 02.03.2012 wherein it is stated that as the surrendered non teaching posts of 5014 of basic service is not been filled up for along time on considering this aspect, now intended to create the posts of Sweeper/watchman and equivalent to 5000 are being dissolved as it has been orders, as there is no other vacant posts.”



W.P No.3258 of 2021

4.1. It is further submitted by the learned counsel for the petitioner that without going into merits of the case the representation made by the petitioner, the respondents can be directed to consider and dispose the representations made by the petitioners in accordance with law.

5. Per contra, Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents submitted that the post of sanitary worker was purely on temporary basis and therefore the petitioner cannot claim the same. The petitioner was not appointed against any of the regular vacancy. The petitioner's employment was not sponsored through employment exchange by following the rule of reservation, which is mandatory for appointing a candidate on a regular basis and his educational qualification is 8th pass. As the National Health Mission comes under the Government of India and funds are also regulated by the Mission Director, National Health Mission, Chennai-06, once the Mission is completed, there is no scope for claiming the relief. The learned counsel further submitted that G.O.Ms.No.22, Personnel and Administrative Reforms (F)Department dated 28.02.2006 will not come



W.P No.3258 of 2021

to the rescue of the petitioner and hence, the petitioner's prayer cannot be entertained.

6.Considering the facts and circumstances of the case and the limited request made by the learned counsel for the petitioner, I am inclined to issue direction to the respondents 1 to 4 to consider the representation of the petitioner dated 03.11.2020 and pass order in the light of the order passed in in W.P.Nos.14199 batch, dated 12.01.2022, and in accordance with law within a period of 6 weeks from the date of receipt of a copy of this order.

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

22.11.2023

Index : Yes /No
Internet : Yes/No
jrs



W.P No.3258 of 2021

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R.N.MANJULA, J.

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