



W.P.No.34906 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 19.07.2023

PRONOUNCED ON : 23.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.P.No.34906 of 2012

and

M.P.No.1 of 2012

Y.Silvester

: Petitioner

-VS-

- 1.The State of Tamil Nadu,
Rep. By its Secretary,
Department of Municipal Administration
and Water Supply, Fort St. George,
Chennai-600 009.
- 2.The Director of Town Panchayats,
Kuralagam, Chennai-600 108.
- 3.The Assistant Director of Town Panchayats,
Collectorate,
Nagercoil-629 001.
Kanyakumari District.
- 4.The District Collector,
Kanyakumari District,
Nagercoil-629 001.



W.P.No.34906 of 2012

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5.The Executive Officer,
Pudukkadai Selection Grade,
Town Panchayat,
Pudukkadai P.O.
Kanyakumari District-629 171.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the fifth respondent in Na.Ka.No.28/2012, dated 25.05.2012 quash the same and further direct the respondents to place the petitioner on regular scale of pay and disburse the pay, allowances and all attendant benefits with effect from date of his appointment ie., 04.04.1997.

For Petitioner : Mrs.Abisha Isaac
for Mr.Isaac Mohanlal

For R1 to R4 : Mr.M.Muthusamy
Government Advocate

For R5 : Mr.Abishek Murthy

ORDER

The writ petition is filed for quashing the proceedings of the fifth respondent, dated 25.05.2012 and further direction by way of Mandamus to place the petitioner on regular scale of pay and for attending benefits from 04.04.1997.



W.P.No.34906 of 2012

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2. The short factuals that are required for determination in this writ petition that the petitioner had passed Higher Secondary Examination in 1994 and studied two year Diploma Course in Plumbing and Fitting Technology during the year 1994-1996 in a Government recognized Industrial Training Institute viz., Leela ITI sponsored by Kalladai Ammal Memorial Educational Trust (Govt. Reg.No.343/93/TNKK/R.D.13) North Meenakshipuram, Nagercoil and passed the final examination.

3. The fifth respondent, by a resolution dated 27.12.1996, decided to fill up two posts of Water Supply Attendants for supplying water to the general public through Employment Exchange and based on the request made by the fifth respondent Panchayat, the District Employment Officer sent a list of eligible candidates vide No.2/37/97 dated 28.02.1997. Accordingly, the candidates names have been sponsored and they were called for the interview on 04.04.1997. After the interview, on 04.04.1997, the Statutory Committee for appointment has selected the petitioner and accordingly, he was appointed as Water Supply Attender with effect from 04.04.1997 vide resolution No.3/1997. He joined duty on the very same day



W.P.No.34906 of 2012

i.e., 04.04.1997.

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4. On 10.07.2000, the second respondent has created two new posts in the Town Panchayat on consolidated pay by prescribing educational qualifications. The fifth respondent passed two resolutions in resolution No.232 dated 18.08.2000 and resolution No.395 dated 27.04.2001 to appoint the petitioner as a Plumber. Despite the said two resolutions passed, the petitioner has not been appointed and hence, he filed an original application in O.A.No.6163 of 2001 before the Tamil Nadu Administrative Tribunal. The Tribunal has granted status quo and after abolition of the Administrative Tribunal, the case was transferred to this Court and renumbered as W.P.No.4641 of 2007 and this Court by an order dated 24.01.2012, disposed of the writ petition directing the respondents to consider the case of the petitioner for regularization of service from due date with all consequential benefits. Aggrieved against the same, the respondents preferred an appeal in W.A.No.392 of 2012 and the same was dismissed.

5. In compliance of the order passed by this Court in W.P.No.4641 of 2007, the impugned order was passed by the fifth respondent on 25.05.2012



W.P.No.34906 of 2012

thereby rejecting the petitioner's claim of regularization of service on two grounds as follows:

(i) The petitioner was appointed on 04.04.1997 which is subsequent to 31.12.1996, the cut off date fixed by the Government for regularization of daily wage employee.

(ii) As per G.O.Ms.No.198 dated 26.10.1998, the second respondent by proceedings dated 10.07.2000, have categorically stated that only daily wage employees those who are in continuous service as on 31.12.1996 were eligible for regularization and not any others including the petitioner.

6. On the factual background, the second respondent had created one post of Water Pump Line Fitter, one post of Watchman, one post of Meter Reader and two posts of Over Head Tank Operator vide G.O.Ms.No.198 dated 26.10.1998 so as to regularize the services of daily wage employees working as on 31.12.1996 who were in continuous work thereafter.

7. Mr.M.Muthusamy, learned Government Advocate for the respondents 1 to 4 would contend that since the date of appointment of the



W.P.No.34906 of 2012

petitioner is on 04.04.1997 which is subsequent to 31.12.1996 and the petitioner was not in continuous period of employment as on the cut off date and hence, he was not considered.

8. The learned Government Advocate would further contend that the petitioner has not worked in any sanctioned post and no prior permission was obtained from the hirer before appointing or during appointment and it was banned on the appointment that as he was not in continuous employment and as per regularization G.O., he is not entitled.

9. Mrs.Abisha Isaac on behalf of Mr.Isaac Mohanlal, learned counsel for the petitioner drew my attention to the order passed by this Court in W.P.No.4641 of 2007.

10. I have perused the G.O.Ms.No.125 dated 27.05.1999, Municipal Administration & Water Supply Department, the relevant portion of the said G.O is extracted hereunder:

- “(i) the Local Bodies prepare a consolidated list of daily wage employees as on 31.12.1996 in Town Panchayats.*
- (ii) appoint such daily wage employees in the Entry*



W.P.No.34906 of 2012

Level Posts.

(iii) regularize their services and pay the benefits from the date of such appointment.

(iv) such appointees shall be on consolidated pay of Rs.2,000/- for one year.

(v) after one year they should be brought into regular time scale of pay.

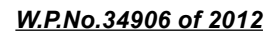
(vi) the period of service as daily wage employee shall not be counted for service benefits.

(vii) until the daily wage employees in the consolidated list as on 31.12.1996 is not exhausted, no fresh appointments from Employments Exchanges should be made.

(viii) the appointment for a post should be made only from the daily wage employees list maintained by the Local Bodies as above and continuing to work as on the date.

(ix) if no daily wage employee is available in the concerned Local Body, then the Local Body should seek the eligible, excess daily wage employee(s) from other Local Bodies from the Director or Assistant Directors for appointment.”

11. The conditions as stated therein in Clause (vii) indicates that he must be a daily wage employee in a consolidated as on 31.12.1996 as per



the G.O.Ms.No.198 dated 26.10.1996, he should have served continuously in the said period.

12. After hearing the learned Government Advocate who made submissions based upon the counter affidavit filed by the respondents 1 to 4, I find that the date of appointment to the petitioner herein is on 04.04.1997 as per the G.O., and only those persons appointed on 31.12.1996, the cut off date fixed by the Government for regularization of daily wages are eligible for such benefits. The above factual position is not disputed by the petitioner. The petitioner's claim for regularization as a Plumber with the fifth respondent herein, was rejected since he had been appointed on 07.04.1997, four months subsequent to the cut off date fixed by the Government for regularization and hence, I do not find any merit in the contention of the writ petitioner.

13. Accordingly, the writ petition is misconceived and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.



W.P.No.34906 of 2012

23.11.2023

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Index: Yes / No

Internet: Yes / No

NCC : Yes/No

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To

- 1.The Secretary,
State of Tamil Nadu,
Department of Municipal Administration
and Water Supply, Fort St. George,
Chennai-600 009.
- 2.The Director of Town Panchayats,
Kuralagam, Chennai-600 108.
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W.P.No.34906 of 2012

RMT. TEEKAA RAMAN, J.

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**Order made in
W.P.No.34906 of 2012**

23.11.2023