



WEB COPY



W.P No.12666 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.12666 of 2020 and
W.M.P.No.15647 of 2020 and
W.M.P.Nos.20254 & 20256 of 2021

J.Rajendran

... Petitioner

Vs.

1.The District Collector,
Villupuram District.

2.The Executive Officer,
Marakkanam Town Panchayat,
Villupuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to regularise the services of the petitioner as Sanitary Worker under the 2nd respondent Town Panchayat with all attendant benefits and allowances by appointing him on regular scale of pay with all attendant benefits.

For Petitioner : Mr.K.S.Saravanan

For Respondents : Mr.G.Nanmaran, Spl.Govt.Pleader



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ORDER

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This Writ Petition has been filed seeking issuance of Writ of Mandamus to direct the respondents to regularise the services of the petitioner as Sanitary Worker under the 2nd respondent Town Panchayat with all attendant benefits and allowances by appointing him on regular scale of pay with all attendant benefits.

2. Heard Mr.K.S.Saravanan, learned counsel for the petitioner and Mr.G.Nanmaran, learned Special Government Pleader appearing for the respondents.

3. The facts of case in brief are as follows:

The petitioner joined as NMR worker in the year 2007 for Sanitary Works under the second respondent Town Panchayat. His appointment was initially on a consolidated basis and he worked continuously in the second respondent Town Panchayat from then onwards. The petitioner requested for regular appointment when future vacancies arose. The second respondent had overlooked the petitioner's claim and selected another individual by name V.Prabhu. Despite the said V.Prabhu worked



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as Electrician, he was regularised in the post of Sanitary Worker. The petitioner has challenged the same by way of filing a Writ Petition in W.P.No.27639 of 2016 and the same is pending. The petitioner had given several representations for regularising his appointment, that was not considered and aggrieved over that, he has preferred this Writ Petition.

4. The learned counsel for the petitioner submitted that the petitioner's juniors were considered for regularisation and for the reasons best known to the respondents, the petitioner was not considered for regularisation.

5. The respondents filed a counter by alleging that the petitioner is not eligible to be considered for any appointment because he is not an employee of the second respondent. Hence the very claim of the petitioner itself is baseless. The Judgments of the Hon'ble Supreme Court and the High Court clearly settled the legal position that no benefit can be given to all those persons who entered through back door without undergoing the established procedure of recruitment by competing with



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equally qualified and eligible persons.

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6. Even according to the petitioner, he worked as a member of Self Help Group. According to the second respondent, the Self Help Group was outsourced for carrying out the maintenance of street lamp posts, supply of drinking water and also for sanitation purposes. The said works have been carried out under Solid Waste Management Rules 2016. If the petitioner claims that he is a member of Self Help Group who had been engaged by the second respondent to carry out the above said necessary functions, he cannot say that he is directly employed by the second respondent and he is entitled to get regularisation. This is obviously because there is no employer and employee relationship between the petitioner and the second respondent.

7. However, the petitioner has stated that the person similarly placed has been considered by the second respondent for permanent post. No documents have been furnished on either side to show how the other person has been appointed or whether the other person had been



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regularised despite he was also working under Self Help Group. It is learnt that the petitioner also challenged the employment of the similarly placed person in some other Writ Petition. In such context of facts, the petitioner cannot claim as a matter of right that his services should be regularised even without proving his entitlement / eligibility. Since the petitioner has stated that he has given representations, it is upto the second respondent to consider the same and dispose it by passing necessary orders in accordance with law. If no such representation is available with the second respondent, the petitioner is at liberty to submit a fresh representation and the second respondent shall consider the same and pass orders in accordance with law.

8. With the above observations, this Writ Petition is disposed and the second respondent is directed to consider the representation submitted by the petitioner and dispose it by passing necessary orders within four weeks. If no such representation is available with the second respondent, the petitioner is at liberty to submit a fresh representation within a period of two weeks from the date of receipt of a copy of this



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order and the second respondent shall consider the same and pass orders in accordance with law within a period of four weeks thereafter.

Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes

Internet : Yes/No

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To

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Villupuram District.
- 2.The Executive Officer,
Marakkanam Town Panchayat,
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