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W.P.No.29808 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.29808 of 2022 &

WMP.Nos.29199, 29200 & 29201 of 2022

R.Ananda

... Petitioner

Vs

1. The Principal Secretary to the Government,
Rural Development and Panchayat Raj Department,
Fort Saint George, Chennai – 600 009.
 2. The Director of Rural Development and Panchayat Raj,
Panagal Mligai, Chennai.
 3. The District Collector,
Tiruppur District, Tiruppur.
 4. The Personal Assistant to Collector [Development],
Tiruppur District, Tiruppur.
 5. The Commissioner,
Malanur Panchayat Union, Tiruppur District.
- ... Respondents

Prayer:- Writ Petition filed under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus Calling for the records



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pertaining to the impugned order passed by the 3rd respondent in na.ka.No. 6470 / 2016 / V6 dated nil .10.2022 signed on 17.10.2022 and quash the same as illegal and unconstitutional consequently direct the respondents to reinstate the petitioner as Record Clerk in the 5th respondent Panchayat Union and grant all monetary and service benefits within the time stipulated by this Court.

For Petitioner : Mr.S.Balamurugan

For Respondents : Mr.P.Baladhandayutham
Special Government Pleader – R1 to R4

Mr.L.Naveenkumar
for Mrs.R.Anitha,
Special Government Pleader – R5

ORDER

This Writ Petition has been filed to quash the impugned order passed by the 3rd respondent in na.ka.No. 6470/2016/ V6 dated nil .10.2022 signed on 17.10.2022 as illegal and unconstitutional and consequently direct the respondents to reinstate the petitioner as Record Clerk in the 5th respondent Panchayat Union and grant all monetary and service benefits within the time stipulated by this Court.



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2. It is the case of the petitioner that he was appointed as a NMR employee as a work Assistant on 01.02.1997 in the Panchayat Union and he is continuously working for more than 10 years in the said post. As per G.O.Ms.No.38 dated 03.05.2015 his service has been regularized and after regularization he has been posted as a Record Clerk in Mulanur Panchayat Union, Tiruppur District. When the matter stood thus, a show cause notice has been issued to the petitioner on 22.04.2022 and finally impugned Order came to be passed on the ground that the petitioner worked for only two years and 10 months as NMR. Challenging the same, the present Writ Petition has been filed.

3. The third respondent has filed a counter stating that the petitioner has been appointed as NMR in the post of work Assistant on 01.02.1997 and was working in the said post till 30.11.1999. The petitioner worked in NMR post only for two years and ten months. However, he has been wrongly regularized. Therefore, the show cause notice has been issued and the impugned Order came to be passed.



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4. The grievance of the petitioner is that the impugned Order has been passed without any proper enquiry. It is his contention that he was paid only for two years and six months and for the remaining period he has worked without salary. In this regard, a certificate has been given by the concerned authorities. Even in the certificate Form B submitted by the officials, the same indicate that he was working till 30.09.2012. That apart, there were several certificates issued by the Assistant Executive Engineers, Krishnagiri to show that the petitioner worked for more than 8 years without any wages. However, the same has not been considered by the respondents.

5. The learned Special Government Pleader appearing for the respondents would submit that the contention of the petitioner that he has worked without salary is highly improbable and the same cannot be countenanced.

6. Since the petitioner has submitted certificates and Form B is also



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submitted in which three officials have signed stating that the petitioner worked till 30.09.2012. The respondents shall verify those documents by giving opportunity to the petitioner and call for the attendance register and verify all certificates issued by the concerned executive officials. If it is found that the certificates have been issued without any documents to substantiate the same, the petitioner cannot seek an appointment as a matter of right. Only for the purpose of proper enquiry, the impugned Order is liable to be quashed.

7. Accordingly, the impugned Order signed on 17.10.2022 is set aside and the second respondent shall conduct proper enquiry with regard to the alleged explanation and call for the records and by giving opportunity to the petitioner, pass final Orders within a period of two months from the date of a receipt of a copy of this Order.

8. With the above observations, this Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.



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Index:Yes/No

Neutral Citation : Yes/No

vrc

To,

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N.SATHISH KUMAR, J.

VTC

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