



W.P.(MD)No.5777 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.5777 of 2020

C.Noble

: Petitioner

Vs.

1.The District Collector
Kanyakumari District
at Nagercoil.

2.The President
Devicode Village Panchayat,
Cheruvallor Post,
Kanyakumari District.

: Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pursuant to the impugned order passed by the 1st respondent herein in Na.Ka.No. V3/25948/2019 dated 09.08.2019 and quash the same as



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illegal and consequently directing the respondents herein to pay the arrears of salary on daily wages basis from March 2015 to 28.11.2018.

For Petitioner : Mr.B.Christopher

For Respondents : Mr.G.V.Vairam Santhosh - for R1
Additional Government Pleader

Mr.T.Amjad Khan - for R2
Government Advocate

ORDER

This writ petition has been filed to quash the impugned order passed by the 1st respondent herein in Na.Ka.No.V3/25948/2019 dated 09.08.2019 and consequently directing the respondents herein to pay the arrears of salary on daily wages basis from March 2015 to 28.11.2018.

2. The petitioner was appointed as a Water Supply Attender in the second respondent Panchayat through proceedings, dated 01.06.2001 and his qualification is SSLC fail. The petitioner has donated his land in



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Resurvey No.61/22 of Edaicode Village to the second respondent Panchayat to construct 11 lakh litres capacity Water Tank under Madathuvilagam Drinking Water Scheme. After appointment, the petitioner filed a writ petition before this Court W.P. No.10485 of 2003 for regularisation of service and this Court disposed of the writ petition with a direction to consider his case for regularisation and the petitioner was drawing the salary of Rs.360/- per day and respondent issued G.O.Ms.No.15, Rural Development Panchayat Raj Department, dated 07.02.2011 and started to pay consolidated wages of Rs.2,000/- with an additional amount of Rs.40/- per day and he had been receiving Rs.360/- per day, till February 2014 and however, subsequently, in view of the above said Government Order, his daily wages was converted into consolidated pay of Rs.2,000/- and reduced, thereby the petitioner filed a writ petition before this Court in W.P.(MD) No. 6137 of 2015 and this Court by order, dated 15.02.2017, made a recommendation to the respondent to restore the earlier daily wages to the petitioner. However, the same was not considered and they rejected the petitioner's request. Challenging the same, the present writ petition is filed with the aforesaid prayer. However, his pay was restored as daily wages,



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however, the past service rendered by the petitioner in the consolidated pay was not converted into daily wages and not paid the balance amount, thereby the present writ petition is filed.

3. The learned counsel for the petitioner further submitted that though the petitioner is receiving daily wages from the year 2018 onwards, prior to that the petitioner served in various time as consolidated pay and that consolidated pay has to be converted into daily wages and the petitioner is entitled for receiving the balance amount in which, the same was refused by the second respondent is not sustainable one. Hence, this Court may pass appropriate orders.

4. Per contra, it is submitted by the respondents that there are several Government Orders issued for paying consolidated amount to OTH. Based on the same, consolidated pay was paid and pursuant to the order passed by this Court, the consolidated pay amount modified and the petitioner is receiving the daily wages as per the order passed by this Court. However, the past consolidated payment cannot be converted into daily



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wages since the petitioner is not challenging the Government Order at the relevant point of time. Hence, the impugned order cannot be interfered with. Hence, he prayed for dismissal of the writ petition.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The facts in the present case are not in dispute. The petitioner was appointed as Water Supply Attender in the second respondent Panchayat through proceedings, dated 01.06.2001 and his qualification is SSLC fail. The petitioner donated his land in Resurvey No.61/22 of Edaicode Village to the second respondent Panchayat to construct 11 lakh litres capacity Water Tank under Madathuvilagam Drinking Water Scheme. After appointment, the petitioner filed a writ petition before this Court W.P. No.10485 of 2003 for regularisation of service and this Court disposed of the writ petition with a direction to consider his case for regularisation and the petitioner was drawing the salary of Rs.360/- per day. Admittedly, there are several Government Orders issued for paying consolidated amount to



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OTH. Based on the same, consolidated pay was paid and pursuant to the order passed by this Court, the consolidated pay was modified and the petitioner was receiving the daily wages as per the order passed by this Court. However, the past consolidated payment cannot be converted into daily wages, since the petitioner is not challenging the Government Order at the relevant point of time. Hence, the impugned order cannot be interfered with.

7. Accordingly, this writ petition is dismissed. No costs.

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Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM



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M.DHANDAPANI, J.

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