



W.P.(MD).No.13468 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.13468 of 2018

Thiru.M.Nagarajapandian

... Petitioner

Vs.

1.The Managing Director,
TWAD Board,
No.31, Kamarajar Salai,
Chennai -05.

2.The Chief Engineer,
Southern Region,
TWAD Board,
Ganesh Nagar,
Opposite to Mattuthavai Bus Stand,
Madurai -07.

3.The Executive Engineer,
TWAD Board,
Urban Division,
Madurai-02.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Lr.No. 451/F.WP(MD)No.21633/2017/EA/2017/ dated 16.04.2018 and quash



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the same and consequently directing the 1st respondent once again to consider the petitioner's representation, on the basis of the copy of the service register submitted by the petitioner and to pass appropriate suitable orders including the petitioner period of service as in the post of men Mazdoor, on the basis of the daily wages service period and re-fix the pay of the petitioner and pay the same retrospective.

For Petitioner : Mr.J.Alaguram Jothi

For R1 to R3 : Mr.P.Vijaya Karthikeyan

ORDER

This writ petition has been filed challenging the impugned order dated 16.04.2018 and to quash the same and consequently direct the 1st respondent once again to consider the petitioner's representation, on the basis of the copy of the service register submitted by the petitioner and to pass appropriate orders, including the period of services as in the post of Men Mazdoor, on the basis of the daily wages service period and re-fix the pay of the petitioner and pay the same retrospectively.



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2. The case of the petitioner is that he was appointed as Men Mazdoor in the year 1981, on the basis of daily wages through employment exchange and posted at Execution No.1 Sub Division, Madurai -2. Though he was served in the same post for more than seven years, his service was not regularised. Hence, he has filed a writ petition in W.P.(MD).No.21633 of 2017 before this Court and this Court, by order dated 05.02.2018, directed the Managing Director to consider the petitioner's representation dated 09.10.2006 and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of that order. Pursuant to which, the present impugned order has been passed stating that the entries regarding NMR services from 10.06.1981 to 20.12.1987 are not available. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that though the petitioner has produced all the records before the respondents for regularisation of service, however, the same was not considered by the respondents, which is not sustainable one. Hence, he



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prayed for appropriate orders.

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4. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

5. The facts in the present case are not in dispute. Admittedly, the petitioner claimed that he was appointed as Men Mazdoor in the year 1981. However, his service was not regularised till date. Hence, he has filed a writ petition before this Court in W.P.(MD).No.21633 of 2017 and this Court, by order dated 05.02.2018, directed the Managing Director to consider the petitioner's representation dated 09.10.2006 and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of that order. Pursuant to which, the present impugned order has been passed. However, the issue involved in the present writ petition is disputed question of fact, which cannot be adjudicated under Article 226 of the Constitution of India. If the petitioner/workman continuously working for 480 days in 24 calendar months, remedy available to the petitioner is to approach the competent authority under



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the Permanent Status Act for regularisation. Without doing so, filing the present writ petition is not maintainable. Hence, this Writ Petition is dismissed with liberty to the petitioner to work out the remedy, in the manner known to law. No costs.

03.03.2023

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To

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M.DHANDAPANI,J.

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