



WEB COPY



W.P.(MD)No.1698 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1698 of 2016

and

W.M.P.(MD)Nos.1453, 1454 and 6909 of 2016

M.Kumar

... Petitioner

vs.

- 1.The Secretary to Government,
State of Tamil Nadu,
Agriculture Department,
Fort St.George, Chennai-9.
- 2.The Director of Agriculture,
Department of Agriculture,
Chepauk, Chennai 5.
- 3.The Assistant Director,
Division of Biological Control Laboratory,
Tirunelveli 2.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for



W.P.(MD)No.1698 of 2016

WEB COPY

issuance of Writ of Certiorarified Mandamus, to call for the records relating to the notification in Na.Ka.No.Ni3/692/2014, dated 17.08.2015, issued by the 3rd respondent as published in Dailythanthi Tamil newspaper, dated 19.08.2015 and to quash the same as void and consequently, to direct the respondents to accommodate the petitioner in service by regularizing the petitioner's service from 01.07.1996 and to pay arrears, back wages from the date of regularization with all other attendant benefits.

For Petitioners : Mr.M.P.Senthil

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the notification, dated 17.08.2015, issued by the 3rd respondent as published in Dailythanthi Tamil newspaper, dated 19.08.2015 and consequently, to direct the respondents to accommodate the petitioner in service by regularizing the petitioner's service from 01.07.1996 and to pay arrears, back wages from the



W.P.(MD)No.1698 of 2016

WEB COPY

date of regularization with all other attendant benefits.

2.The brief facts of the case are that the petitioner was working as collection larva in the 3rd respondent office and the was appointed on 01.07.1996 as daily wage employee. Subsequently the petitioner was paid Rs.2,067/- per month, vide proceedings, dated 11.03.1998. The petitioner has completed 8th standard and has enrolled in employment exchange in the year 1992. The contention of the petitioner is that from 01.07.1996 the petitioner is working as full time daily wage employee and the respondents would pay after getting financial sanction from the 1st and 2nd respondents. The said post is a regular post and the petitioner alone is working in the said post since 1996. In the meantime the Government issued G.O.Ms.No.22, dated 28.02.2006 and the petitioner has completed 10 years of service, hence he is entitled for regularization. The petitioner submitted several representations to regularize on completion of 10



W.P.(MD)No.1698 of 2016

WEB COPY

years of service on 01.07.2006 itself and as of now he has completed 19 years of service. The respondents have not considered the representations.

3. In the meanwhile, the respondents have issued Notification to fill up 42 vacancies of depot watchman, by calling for application in Dailythanthi Tamil Newspaper. The qualification prescribed is to read and write in Tamil, SSLC fail with scale of pay of Rs.4800-10000+1300 (other benefits). The contention of the petitioner is that 13 posts were filled up and the remaining 29 posts are still vacant. The petitioner is also relying on G.O.No.74, dated 28.06.2013, based on which the second respondent, vide proceedings, dated 20.03.2014, directed the 3rd respondent to submit the particulars with regard to full time daily wagers, who have completed 10 years of service after relaxing the conditions as mentioned in G.O.No.74, dated 28.06.2013. Accordingly, the 3rd respondent recommended the petitioner's name, vide proceedings, dated 08.04.2014. The respondents have not



W.P.(MD)No.1698 of 2016

WEB COPY

considered the same. Aggrieved over the same, the petitioner has filed this writ petition.

4. The respondents have filed the counter affidavit stating that G.O.Ms.No. 22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, is not applicable to the petitioner, since as on 01.01.2006, the petitioner has completed only 9 years and 4 months of service. The petitioner ought to have completed 10 years of service as on 01.01.2006. Therefore, the petitioner's claim cannot be considered. Moreover, the petitioner was serving as collection larva but the post that is called for is depot watchman. Therefore, the petitioner cannot claim any leverage to be appointed in the said post. Hence, the respondents prayed to dismiss the writ petition.

5. Heard Mr.M.P.Senthil, learned Counsel appearing for the petitioner and



W.P.(MD)No.1698 of 2016

WEB COPY

Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondents and perused the records.

6.It is an admitted fact that the petitioner has completed 9 years 4 months as on 01.01.2006. Subsequently, the Government has issued G.O.No.74, dated 28.06.2013, based on the same, the second respondent, vide proceedings, dated 20.03.2014, directed the 3rd respondent to submit the particulars with regard to full time daily wagers, who have completed 10 years of service after relaxing the conditions mentioned in G.O.No.74, dated 28.06.2013. When G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, was issued the petitioner had completed only 9 years 4 months. When G.O.No.74, dated 28.06.2013, was issued in the year 2013, the petitioner had completed more than 16 years of service, that is why, the second respondent has directed the 3rd respondent to submit the particulars and the petitioner's name was also



W.P.(MD)No.1698 of 2016

WEB COPY

recommended, vide proceedings, dated 20.03.2014.

7. Therefore, this Court is of the considered opinion that the respondents are bought to consider the petitioner's case and regularize the service of the petitioner, as per the recommendation. The petitioner is aged about 50 years now, at this stage, he cannot be directed to seek any appointment, more so, in the public employment. Therefore, the respondents are directed to allow the petitioner to continue his service in the said post until his superannuation.

8. The learned Additional Government Pleader submitted that as far as the regularization is concerned there is no post called collection larva. The petitioner has challenged the recruitment notification for the post of depot watchman. Hence, the petitioner is not entitled to be considered for the post of depot



W.P.(MD)No.1698 of 2016

WEB COPY

watchman. The petitioner submitted that he has the qualification prescribed for the said post and 42 posts were called for, only 13 posts were filled up. Therefore this Court is of the considered opinion that since there is vacancy in the post of depot watchman, the petitioner's candidature shall be considered for regularisation in the said post. Therefore the respondents are directed to regularise the petitioner's service in the said vacant post. The said exercise shall be completed within a period of eight weeks from the date of receipt of the copy of the order.

9. With the above said direction, the writ petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
NCC : Yes / No
Tmg

08.02.2023



WEB COPY



W.P.(MD)No.1698 of 2016

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Agriculture Department,
Fort St.George, Chennai-9.
- 2.The Director of Agriculture,
Department of Agriculture,
Chepauk, Chennai 5.
- 3.The Assistant Director,
Division of Biological Control Laboratory,
Tirunelveli 2.



WEB COPY



W.P.(MD)No.1698 of 2016

S.SRIMATHY, J

Tmg

W.P.(MD)No.1698 of 2016

08.02.2023