



W.P.(MD)No.3155 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.3155 of 2016

and

W.M.P(MD)No.2766 of 2016

S.RajaGopal

... Petitioner

vs.

1.The Government of Tamil Nadu,
Represented by its Principal Secretary,
Rural Development and
Panchayat Raj(E5) Department,
Fort St. George, Secretariat,
Chennai 600 009.

2.The Director of Rural Development,
Panagal Building,
Saidapet, Chennai – 15.

3.The District Collector,
Sivagangai District,
Sivagangai.

4.The Commissioner,
Manamadurai Panchayat Union,
Sivagangai District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records pertaining to the impugned order passed by the 1st respondent in G.O.(Pa) No.554, Rural Development and Panchayat Raj (E5) Department, dated 28.11.2013 and the impugned order passed by the 4th respondent in Na.Ka.A.1/ dated 17.06.2014, quash the same and consequently regularize the services of the petitioner as per the regularization order passed by the 3rd respondent in Na.Ka.P5/56958/2007, dated 28.12.2008 and declare the probation as per the above regularization order.

For Petitioner : Mr.P.Saravanakumar

For Respondents : Mr.S.R.A. Ramachandran
Additional Government Pleader

ORDER

This writ petition is filed challenging the impugned G.O.(Pa)No.554, Rural Development and Panchayat Raj (E5) Department, dated 28.11.2013 and the impugned order, dated 17.06.2014 with consequential relief to regularize the services of the petitioner, as per regularization order, dated 28.12.2008 and declare probation as per the above regularization.



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2. Heard Mr.P.Saravanakumar, learned counsel appearing for the petitioner and Mr.S.R.A.Ramachandran, learned Additional Government Pleader appearing for the respondents. Perused the material documents available on record.

3. The petitioner was initially appointed as Attender in Rural Siddha Dispensary, Mulaganur, Manamadurai Panchayat Union, through the Employment exchange on 15.08.1987. In the said appointment order, it was mentioned that wages will be paid as per the market rate fixed by the District Collector. Thereafter, the Government has issued G.O.Ms.No.107 Personnel and Administrative Reforms Department, dated 05.02.1987, wherein it is stated that the contingent employee, who is working for more than 5 years should be brought into regular establishment and the post should be sanctioned as permanent. Based on this, the District Collector has submitted a proposal to the 2nd respondent on 27.12.1995. In spite of the Collector's recommendation, the respondents did not bring the petitioner under the regular establishment. Hence, the petitioner has approached the Tamil Nadu Administrative Tribunal and filed an application in O.A.No.3252 of 2001 for a direction to regularize, with effect from initial date of



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appointment and pay time scale of pay and the same was dismissed by the Tribunal on 19.07.2007. Against which, the petitioner has prepared a writ petition in W.P.(MD)No.2043 of 2003 before the Division Bench of this Court. This Court, vide order, dated 08.07.2007, directed the respondents to regularize the service within a period of 12 weeks as per G.O.Ms.No.107, Personnel and Administrative Reforms (PER-F) Department, dated 05.02.1987. Since the respondents have not regularized the service as per the direction of this Court, the petitioner has filed a Contempt petition in Cont.P.(MD)No.1095 of 2008. Thereafter the respondents have regularized the service of the petitioner, but granted regularization from 2000 only. The contention of petitioner is that the respondents ought to have regularized the petitioner's service from 04.09.1997 onwards. Since the respondents have regularized the petitioner's service from the year 2000, aggrieved over the same, the present writ petition is filed.

4. The respondents have filed counter, wherein it has been stated that the petitioner is coming within the zone of consideration on completion of 10 years. But prior to completion of 10 years, the District Collector has forwarded



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a proposal dated 27.12.1995 to the Government for regularizing the petitioner's service. Since the proposal was pending with the government, the service was not regularized. But subsequently the petitioner service was regularized through the impugned G.O. in order to obey the orders of this Hon'ble Court. In the present case, the petitioner was appointed on 15.08.1987. The Government after considering the facts and circumstances of the case has issued the impugned G.O. and the respondents pray to dismiss the writ petition.

5. After considering the rival submissions, this Court has given its anxious consideration. It is seen that the G.O.Ms.No.107 dated 05.02.1987 was issued to regularize the persons who were appointed prior to 05.02.1987. To be precise the persons who were appointed in the year 1977 and prior to 1977, who have completed 10 years of service in the year 1987 were considered for regularization. Hence, the petitioner cannot seek to regularize his service in the light of G.O.Ms.No.107 dated 05.02.1987, since the said G.O. was passed to regularize the persons who were appointed prior to 05.02.1987. Moreover this G.O. is issued by the P&AR Department.



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6. In the meanwhile, the government considered to regularize certain persons working in Rural Development and Panchayat Raj Department and issued G.O.Ms.No.161 Rural Development and Panchayat Raj Department dated 26.06.2000. In the said G.O. it has been mentioned that persons appointed prior to 01.04.1981 in the Rural Development and Panchayat Raj Department and who have completed 10 years of service were regularized through G.O.Ms.No.878 Rural Development and Panchayat Raj Department dated 15.05.1981. Moreover, there was ban in recruitment from 01.04.1981 in the Rural Development and Panchayat Raj Department. Now persons who were appointed after 01.04.1981 and who have completed 10 years of service are considered for regularization in G.O.Ms.No.161. It is also mentioned in the said G.O. that the persons mentioned in the list alone would be regularized and within a period of three years the post of Night Watchman would be created and in the said post the persons in the list would be regularized. But the petitioner's name is not in the list.

7. This Court is of the considered opinion that the other persons who were appointed after 01.04.1981 was considered in the G.O.Ms.No.161, the petitioner was appointed on 15.08.1987 is entitled to be considered. Even though



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the G.O.Ms.No.107 is not applicable to the petitioner, but G.O.Ms.No.161 is applicable to the petitioner. The Government after considering the facts and circumstances of the case has issued the impugned G.O.(Pa) No.554, dated 28.11.2013 and has given effect of regularization from the year 2000. Granting regularization from 2000 is based on the G.O.Ms.No.161, since in the said G.O. the persons listed there under were granted regularization from 2000 onwards. Moreover the petitioner was granted regularization from the year 2000 onwards, the petitioner is entitled for pensionary benefits, because the regularization prior to 11.07.2003. After the petitioner is coming within the zone of consideration, the respondents have considered the case of the petitioner and granted regularization from the year 2000 onwards. Therefore, there is no infirmity in granting regularization from 2000 onwards. Moreover, several other persons were granted regularization from 2000 onwards. If the claim of the petitioner is considered, then the similarly placed persons would come forward to regularize from the date of completion of 10 years and the government would be burdened with huge financial commitment and it will be opening Pandora Box.



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8. There is no specific conditions in any G.O. that the regularization would be granted on completion of 10 years. It is only the policy decision of the government. There is no compulsion by the Government to regularize on completion of 10 years. Hence the G.O., regularizing from the year 2000 is preferably valid.

9. Since the petitioner has not raised any valid reasons, this writ petition stands dismissed, by confirming the G.O.(Pa) No.554, Rural Development and Panchayat Raj (E5) Department, dated 28.11.2013. No Costs. Consequently, connected petition is closed.

Index : Yes / No
Internet : Yes
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To

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Represented by its Principal Secretary,
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S.SRIMATHY, J

ksa

Order made in
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