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W.P.(MD)No.795 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.795 of 2016

P.Sankar

... Petitioner

vs.

- 1.The Secretary to Government,
Public Works Department,
Chennai - 600 009.
- 2.The Principal Chief Engineer,
Water Resources Organization/PWD,
Office of the Public Works Department,
Chepauk, Chennai - 5.
- 3.The Chief Engineer,
Water Resources Organization/PWD,
Madurai Region,
Office of the Public Works Department,
Tallakulam, Madurai.
- 4.The Superintending Engineer,
Water Resources Organization/PWD,
Tamirabarani Basin Division,
Tirunelveli.



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5.The Executive Engineer,
Water Resources Organization/PWD,
Tamilabarani Basin Division, Tirunelveli.

6.The Assistant Executive Engineer,
Water Resources Organization/PWD,
Upper Tamilabarani Basin Sub Division,
Cheranmahadevi, Tirunelveli District.

7.The Section Officer,
Water Resources Organization/PWD,
Kannadian Channel Section,
Cheranmahadevi, Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, challenging the impugned order passed by 6th respondent in letter No. 714/2015/Ko-24/dated 16.09.2015 and to quash the same and to direct the respondents 1 to 7 to regularize the service of the petitioner in the post of Mazdoor in the 7th respondent section with all service benefits and attendant and other benefits including continuity of service.

For Petitioner : Mr.T.Selvan

For Respondents : Mr.R.Suresh Kumar

Additional Government Pleader



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ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned order dated 16.09.2015 passed by 6th respondent and to direct the respondents 1 to 7 to regularize the service of the petitioner in the post of Mazdoor in the 7th respondent section with all service benefits and attendant and other benefits including continuity of service.

2. The petitioner was appointed on 23.09.1994 as Mazdoor on daily wages in the 6th respondent section and he was allowed to work as NMR until 30.06.2004. The petitioner submitted a representation to the respondents after G.O.Ms.No.22, Personnel and Administrative Reforms Department, dated 28.02.2006, to regularize the petitioner's service. But the respondents have not taken any steps to regularize the petitioner's appointment as Mazdoor.



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3. The contention of the petitioner is that all the NMR served in several Departments were regularized by passing G.O.Ms.No.528, dated 10.10.1988 and G.O.Ms.No.22, Personnel and Administrative Reforms Department, dated 28.02.2006. Therefore, the claim of the petitioner is to regularize him after completion of 10 years. But the respondents considered the petitioner's representation and has declined regularization stating that the daily wages employees (NMR) cannot be appointed directly to any Government service in the respondent division, the persons who have been appointed in regular post and who have completed 10 years were regularized. There is no list for the persons available in the respondent division who have completed 10 years and who are eligible for regularization. Since the petitioner is only a daily wage employee, that too, the petitioner has served until 2004 and he was relieved from service, the petitioner cannot seek any regularization. Therefore, the respondents pray to dismiss this the writ petition.



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4. Heard Mr.T.Selvan, learned Counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondents.

5. On perusing the records, it is seen that the petitioner was out of service from the year 2004 onwards. Even if the respondents are directed to regularize the petitioner, it cannot be done after a lapse of 18 years. Moreover, in the impugned order, it has been stated that no employee was appointed as NMR in the respondent division. Moreover, whoever were appointed as temporary in the respondent department and who had served more than 10 years were all taken into service and SR book was opened. The petitioner is not in the said list and there are no records to claim that he had served in the respondent department in temporary basis or NMR. But such contention of respondents was refuted by the



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petitioner by relying on the statement of payment made to the petitioner. In the said statement it has been mentioned that the petitioner was paid wages as NMR through vouchers. On perusing the same this Court is of the considered opinion that the said statement is not signed by any authority and hence the same cannot be relied on.

6. The respondents further relied on the judgment rendered by the Learned Single Judge in W.P.(MD)Nos.2195 and 2197 of 2020, dated 12.09.2022, wherein the claim of the petitioners was rejected by the Learned Single Judge by stating that as on the date of consideration, the petitioners were out of employment for more than 6 years, therefore, the petitioners are not entitled to regularization.

7. Following the said judgment, this Court is also of the considered opinion that the petitioner cannot seek any regularization after a lapse of



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18 years. Therefore, the writ petition stands dismissed. No costs.

Index : Yes / No

21.02.2023

Internet : Yes

NCC : Yes / No

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