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W.P.No.2049 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.2049 of 2012

A.Rajamani

.. Petitioner

Versus

1. The Secretary to the Government,
Government of Tamil Nadu,
Agriculture Department,
Fort St. George, Chennai - 600 009.
 2. The Chief Engineer,
Agricultural Engineering Department,
328, Anna Salai, Nandanam,
Chennai - 600 035.
 3. The Executive Engineer,
Agricultural Engineering Department,
Tiruvannamalai District.
 4. The Executive Engineer,
Agricultural Engineering Department,
No.7, Nellikuppam Main Road,
Chavadi,
Cuddalore - 607 001.
- .. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
pleased to issue a Writ of Certiorarified Mandamus, calling for the records



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pertaining to the letter of the 1st respondent in No.22427/AA3-04-13, dated 04.02.2008, letter of the 2nd respondent in P & A No.2/15839/2010, dated 28.05.2010 and the proceedings of the 4th respondent in Lr.No.A/3493/11(2), dated 27.12.2011 and quash the same and consequently, direct the respondents to appoint the petitioner as Assistant Agricultural Engineering Foreman or Assistant Soil Conservation Officer or Assistant Driller or any other suitable post in the Agricultural Engineering Department.

For Petitioner : Mr.Sonu
for Mr.C.K.M.Appaji

For Respondents : Mr.R.Siddharth,
Government Advocate

ORDER

The petitioner was employed temporarily in Jawahar Velaivaippu Thittam scheme and other schemes on Nominal Muster Roll basis from the year 1990. While so, originally, the association representing the technical staff filed O.A.Nos.3108 and 3111 of 1995 before the Tamil Nadu Administrative Tribunal, Chennai and by an order, dated 11.06.1996, the Tribunal directed the Government to consider their cases in the future vacancies that may arise subject to the fact that the petitioners therein are qualified to be appointed to such vacancies.



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2. Thereafter, the petitioner filed O.A.No.2764 of 2001 seeking a direction to the respondents therein to regularise the petitioner's services. By an order, dated 20.06.2001, the Tamil Nadu Administrative Tribunal directed the respondents to consider the claim of the applicants for regular appointment as and when vacancy arises and pass orders as per rules. It is seen that pursuant to the said order, some of the persons were actually appointed in posts, such as, Driver etc., for which, they were qualified as per the rules. As a matter of fact, the petitioner was also continued in employment till the year 2008 on consolidated pay. However, he was not granted any permanent employment.

3. The petitioner made a representation on 09.01.2008 to confirm him in the post of Junior Engineer or equivalent post since the petitioner was a Diploma holder. As a matter of fact, the proposal to absorb the candidates such as the petitioners in those technical posts were placed before the Government. By an order, dated 04.02.2008, the Government considered that the post of Assistant Engineer / Junior Engineer are within the purview of the Tamil Nadu Public Service Commission and decided that the



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petitioner and the other persons cannot be accommodated in the said posts and therefore, rejected the claim of the persons including the petitioner.

4. Pursuant to the Government Order, by an order, dated 28.05.2010, individually, the petitioner was informed that his request to absorb him in the post of Office Assistant or Assistant Driller cannot be complied with. The petitioner, thereafter, approached this Court by filing the Writ Petition in W.P.No.7143 of 2010 with a prayer to implement the orders of the Tamil Nadu Administrative Tribunal, Chennai in O.A.No.2764 of 2001, dated 20.06.2001. After considering the claim of the petitioner and the stand of the respondents therein, this Court found that by the two orders i.e., order of the Government, dated 04.02.2008 and order the Chief Engineer, dated 28.05.2010, already, the claim of the petitioner has been rejected and therefore, directed the respondents to furnish the copies of those orders to the petitioner and by an order, dated 25.01.2011, dismissed M.P.No.1 of 2010. Subsequently, the said Writ Petition in W.P.No.7143 of 2010 was dismissed for default by an order, dated 13.03.2020.



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5. The petitioner has filed the present petition challenging the said orders of the Government and to regularise the services. When the petitioner's earlier Writ Petition in W.P.No.7143 of 2010 is dismissed for default, the petitioner cannot maintain the present second Writ Petition for the self-same relief.

6. Even otherwise on merits also, when there is no enabling scheme which entitles the petitioner for regularisation, when the Tribunal had only directed to consider as per the rules, when the petitioner's case has been rejected by the respondent Government, this Court, under Article 226 of the Constitution of India cannot direct regularisation of the services of the petitioner, unless and otherwise, the petitioner is entitled for the same by any scheme thereof. In paragraph No.11 of the counter-affidavit filed by the second respondent, it is pleaded that as per the scheme framed by the Government, the petitioner did not possess 10 years of service as on 01.01.2006 and therefore, the petitioner could not be considered under the said scheme.



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7. For all the above facts, no relief could be granted to the petitioner in the present Writ Petition. Accordingly, this Writ Petition is dismissed.

There shall be no order as to costs.

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Index : yes
Speaking order
Neutral Citation : no
grs

To

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