



W.P.No.20862 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.20862 of 2013

D.Babu

...Petitioner

Vs.

1.The District Collector,
The District Collector Office,
Department of Rural Development,
Kanchipuram District,
PIN – 603 209.

2.The Director,
State Institute of Rural Development,
Maraimalai Nagar,
Kanchipuram District,
PIN – 603 209.

3.The Chairman/Principal Secretary to Government,
Rural Development & Panchayat Raj Department,
Secretariat Complex
Chennai – 600 009.

4.The Secretary to Government of India,
The Ministry of Rural Development,
Block No.11, 6th Floor,
CGO Complex, Lodhi Road,
New Delhi – 110 003.

...Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to quash the impugned order dated 19.03.2013 in proceedings Na.Ka.No.30584/2012 WO.4 passed by the 1st respondent and consequently to direct the 2nd respondent to regularize the services of the petitioner from the date of his initial appointment with all the attended benefits thereon.

For Petitioner : Mr.K.Shahul Hameed
For Respondents : Ms.RL.Karthika
Government Advocate

ORDER

This writ petition has been filed questioning the proceedings Na.Ka.No.30584/2012 WO.4 dated 19.03.2013, whereby the petitioner was informed that his case cannot be considered for regularization as he was not in service and sought for a consequential direction to the 2nd respondent to regularize the services of the petitioner from the date of his initial appointment.

2. It is the case of the petitioner that the petitioner was appointed on daily wage basis in the year 1993 in the 2nd respondent institute and continued as such till the year 2009 on daily wage basis but he was not allotted to any work from the year 2009 onwards. However, he made a claim for regularization of his services in terms of G.O.Ms.No.22 Labour & Employment dated 28.02.2006 issued by the Personnel and Administrative Reform (F) Department. The 2nd



respondent having considered the claim of the petitioner furnished information through impugned proceeding dated 19.03.2013 in Na.Ka.No.30584/2012 WO.4 stating that the question for considering the case of the petitioner under G.O.Ms.No.22 dated 28.02.2006 does not arise, as he is no more continuing in service.

3. In response to the notice issued by this Court, the 2nd respondent had filed a counter-affidavit stating that the petitioner has not completed 10 years of service on daily wage basis and his services were only engaged occasionally and he has not satisfied the requirements under G.O.Ms.No.22 dated 28.02.2006 as modified by G.O.Ms.No.74 dated 27.06.2013 and as such, the petitioner is not entitled for the benefit of regularization as claimed by him.

4. The learned counsel for the respondent also placed attendance register of the petitioner before this Court and submitted that the petitioner had only worked for about 1378 days in the entire period of 10 years and the benefit of the regularization is available only to the full time daily wage employees, who have completed 10 years of service as on 01.01.2006 and also further submitted that the services of the petitioner were engaged by the 2nd respondent on daily



wage basis for first time only in the year 1998. In spite of the counter-affidavit filed by the second respondent, neither rejoinder nor any reply affidavit is filed on behalf of the petitioner.

5. If the services of the petitioner were engaged only from 02.07.1998, as typist on daily wage basis, the question of petitioner completing 10 years of service as on 01.01.2006 does not arise. Added to this, it is also stated in the counter-affidavit that the petitioner has resigned from the service in the year 2009 and also made a request for EPF amount payable to him, submitting a representation dated 29.02.2012. The factum of submitting such a representation for payment of EPF amounts through a representation 29.02.2012 is not denied by the petitioner. But it is contended that the respondent themselves insisted the petitioner to submit EPF application form and accordingly, he has submitted the said representation. Whatever may be the reason, the submission of representation dated 29.02.2012 is admitted by the petitioner and the same is being disputed for the first time before this Court across the bench. Hence, this Court is not inclined to accept the said submission. Admittedly, the services of the petitioner were discontinued in the year 2009 either by the 2nd respondent or on own volition of the petitioner by submitting his resignation. The alleged



action of the 2nd respondent in discontinuing the services of the petitioner in the year 2009 is not under challenge nor the alleged resignation submitted by the petitioner is under challenge, in the present writ petition. The present writ petition is only claiming for regularization of his services as typist in terms of the G.O.Ms.No.22 dated 28.02.2006.

6. As already observed above, the petitioner has not completed 10 years of service as on 01.01.2006 and therefore, the question of considering the claim of regularization service of the petitioner does not arise. However, as seen from G.O.Ms.No.74 dated 27.06.2013, the part-time and casual employees are not entitled for the benefits of the G.O. In light of the specific contention raised by the respondent that the petitioner has only worked 1378 days during his entire service in 2nd respondent institute, the petitioner cannot be said to be a full time daily wage worker.

7. The contention of the learned counsel for the petitioner that the G.O.Ms.No.22 dated 28.02.2006 is prospective in operation and as and when the petitioner completes 10 years of service, he is entitled for regularization is concerned, such contention of the petitioner is not supported by the contents of G.O.Ms.No.22 dated 28.02.2006 as modified by G.O.Ms.No.74 dated



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27.06.2013 and there are no materials placed on record to show that the petitioner is entitled for regularization of his services as and when he completes 10 years of service.

8. In the light of the above, the relief sought for by the petitioner to regularize his services from date of his initial appointment cannot be granted, accordingly this writ petition stands dismissed. No costs.

14.08.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
NST

To,

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The District Collector Office,



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MUMMINENI SUDHEER KUMAR,J.

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