



W.P.No.5362 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

CORAM

THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.No.5362 of 2020

and

W.M.P.Nos.20416 and 6298 of 2020

S.Abdul Halim

...Petitioner

Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai -600 009.

2.The Director,
Rural Development Department,
Panagal Buildings,
Saidapet,
Chennai - 600 015.

3.The Collector,
Cuddalore District,
Cuddalore - 607 001.

4.P.Pasupathi

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records connected with the impugned order passed by the 2nd respondent in Na.Ka.No.



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35672/2018/B1, dated 03.12.2019 and the consequential order passed by the 3rd respondent in Na.Ka.No.Pa Aa4/1834/2017, dated 08.01.2020 and quash the same and consequently direct the respondents to promote the petitioner from the date on which his next junior was promoted with all other attendant service and monetary benefits.

For Petitioner : Mr.R.Rengaramanujam

For Respondents : Mr.M.Muthusamy,
Government Advocate
for R1 to R3

ORDER

The instant Writ Petition has been filed challenging the orders passed by the 2nd respondent dated 03.12.2019 and the 3rd respondent dated 08.01.2020.

2.The learned counsel for the petitioner would submit that, the petitioner was appointed in the Kammapuram Panchayat Union as 'Night Watchman' vide order dated 13.12.1983. It is the further submission of the learned counsel for the petitioner that by virtue of G.O.Ms.No.267, Rural Development Department, dated 22.12.1999, his appointment was regularized, on completion of ten years *qua* from 31.12.1993. However, the respondents by invoking the G.O.Ms.No.161, Rural Development Department, dated 26.06.2000, has modified the date of regularization, which is contrary to the orders passed by this Court in a batch of W.P.No.8512 of 2007, etc., dated 24.08.2011. Further,



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the learned counsel for the petitioner would submit that the right vested by virtue of G.O.Ms.No.267, dated 22.12.1999 cannot be withdrawn arbitrarily, by issuing another Government Order. Hence, he prayed to quash the proceedings of the respondents.

3.*Per contra*, the learned Government Advocate for the respondents would vehemently contend that, though two Government Orders in G.O.Ms.No.217 and G.O.Ms.No.267 were relied by the petitioner, a Government Order has been subsequently superseded by G.O.Ms.No.161, dated 26.06.2000, in which the persons those who were appointed after 01.04.1981 and completed ten years were regularized. However, the regularization was given effect only from the date of the Government Order *qua* from 26.06.2000. Further, it is contended that the 4th respondent was appointed in the sanctioned post, and the post was ordered to be regularized by virtue of G.O.Ms.No.161, dated 26.06.2000. Hence, it is the submission of the learned Government Advocate that the proceedings of the Government are in accordance with law, and does not require any interference by this Court. Hence, he prayed to dismiss the instant Writ Petition.

4.I have given my anxious consideration to either side submissions.



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5.From the perusal of the records, the petitioner was appointed on 30.12.1983, hence, the relevant Government Order is G.O.Ms.No.267, dated 22.12.1999. According to the above G.O., if the person is appointed after 01.04.1981, and have been continuing without any break in service for more than ten years, then they have to be regularized by the respective District Collector. In pursuance thereof, the District Collector passed an order dated 14.05.2002, regularizing the petitioner with effect from the date he completes ten years, namely, from 01.01.1994 onwards.

6.However, subsequent to the G.O.Ms.No.267, dated 22.12.1999, another Government Order in G.O.Ms.No.161, dated 26.06.2000, was issued. When a clarification was sought in respect of its application, it is informed to the District Collectors that the regularization of the petitioner should come into effect only from the date of G.O.Ms.No.161, namely, from 26.06.2000. Based on such clarification, the regularization date of the petitioner was modified from 01.01.1994 to 26.06.2000. It is in this background, the petitioner would contend that his seniority in Sl.No.87 has been modified and kept below the Sl.No.97 of Pasupathi's seniority.



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7.As rightly contended by the learned counsel for the petitioner, while looking at the orders of the learned Single Judge, in a batch of Writ Petitions in W.P.No.8512 of 2007, etc., dated 24.08.2011, in the case of S.Balakrishnan and another vs. The Government of Tamil Nadu rep. by its Secretary, Rural Development Department, Secretariat, Chennai - 9 and 3 others, whatever right conferred and vested with parties under two G.O.Ms.Nos.217 and 267 have been upheld. In the case in hand, according to the G.O.Ms.No.267, dated 22.12.1999, the petitioner was regularized on his completion of ten years of service, ie., with effect from 01.01.1994. Therefore, the order passed by the Government that the petitioner would be regularized from 26.06.2000 is contrary to the orders of the learned Single Judge in a batch of Writ Petitions in W.P.No.8512 of 2007, etc., dated 24.08.2011 in the case of S.Balakrishnan and another vs. The Government of Tamil Nadu rep. by its Secretary, Rural Development Department, Secretariat, Chennai - 9 and 3 others.

8.However, with regard to the petitioner's seniority, the petitioner did not dispute the appointment of the 4th respondent in the post of, Office Assistant. On a perusal of the letter of the District Collector dated 11.04.2018, it is apparent that the 4th respondent was appointed in the sanctioned post as early as



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on 01.09.1988, and he has been regularized by proceedings dated 21.06.1996 with effect from 01.09.1988. Whereas, the petitioner was not appointed in the sanctioned post, though he was regularized on completion of ten years of service, still his date of regularization is subsequent to the regularization date of the 4th respondent, as the 4th respondent's date of regularization is with effect from 01.09.1988. Therefore, in view of what is stated herein above, the impugned order passed by the respondents is liable to be interfered with, as the same is in contravention to the order of the learned Single Judge dated 24.08.2011 passed in S.Balakrishnan's case.

9. On harmonious reading of the orders of the learned Single Judge, the learned Single Judge unequivocally held that, the right under G.O.Ms.Nos.217 and 267 has to be protected. According to the G.O.Ms.No.267, the petitioner was already regularized by the District Collector with effect from 01.01.1994. Therefore, by virtue of the order of the learned Single Judge in a batch of W.P.No.8512 of 2007 dated 24.08.2011, the subsequent G.O.Ms.No.161, dated 26.06.2000 will have no effect. Besides in the very same order, the learned Single Judge has quashed the entire G.O.Ms.No.161, dated 26.06.2000 and the consequential order of recovery. Therefore, the contention of the learned counsel for the respondents that the order of the learned Single Judge quashing



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G.O.Ms.No.161, dated 26.06.2000 is only in respect of recovery, cannot be countenanced. Therefore, though the two impugned orders dated 03.12.2019 and dated 08.01.2020 are liable to be quashed, in view of the peculiar facts that the 4th respondent was appointed in the sanctioned post during 1988 and was regularized from the date of his initial appointment, the 4th respondent's seniority and his promotion would be in no way affected by this order.

With the above observations, this Writ Petition is allowed.
Consequently, connected Miscellaneous Petitions are closed. No costs.

23.10.2024

Index :Yes/No
Speaking order :Yes/No
Neutral citation :Yes/No
mps

To

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