



W.P.No.9767 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.9767 of 2020 and
W.M.P.No.11892 of 2020

M.Poonchulai

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by the Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai 600 009.

2.The District Collector / Inspector of Panchayats,
Dharmapuri District,
Dharmapuri.

3.The Commissioner / Block Development Officer,
Dharmapuri Panchayat Union Office,
Dharmapuri, Dharmapuri District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to forbear the third respondent from terminating the service of the petitioner as Watchman-cum-Driver in the third respondent Panchayat Union and consequently direct the respondents to appoint and regularise the petitioner's service as Night Watchman in the regular post with all consequential service and monetary benefits.



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For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.T.Chezhiyan, AGP for R1 & R2
Mr.P.S.Sivashanmugasundaram for R3

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Mandamus, to forbear the third respondent from terminating the service of the petitioner as Watchman-cum-Driver in the third respondent Panchayat Union and consequently direct the respondents to appoint and regularise the petitioner's service as Night Watchman in the regular post with all consequential service and monetary benefits.

2. Heard Mr.M.R.Jothimanian, learned counsel for the petitioner, Mr.T.Chezhiyan, learned Additional Government Pleader for R1 & R2 and Mr.P.S.Sivashanmugasundaram for R3.

3. The petitioner has been originally appointed as Cement Godown Watchman on 01.04.2007 in the third respondent and subsequently deputed as Driver *vide* order dated 18.10.2019. The petitioner has served for 13 years as a Watchman-cum-driver without any break. The third



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respondent has made a recommendation to the second respondent for regularisation of the services of the petitioner as Night Watchman *vide* his proceedings in Na.Ka.No.1636/A1/2017 dated 21.09.2017 and the same was not considered so far. As per G.O.Ms.No.114 dated 06.05.2000, the first respondent had permitted the Panchayat Union Councils to fill up the vacancies by constituting selection committee. So it is claimed by the petitioner that the third respondent is entitled to appoint and fill up the vacancy as per the Government Order.

4. It is further submitted that the second respondent has also given permission to the third respondent Union to appoint the Godown Watchman *vide* his proceedings in Na.Ka.No.19479/06/E1 dated 13.11.2006. It is submitted that in pursuant to the above Government Order and the permission, the third respondent Panchayat Union has also passed a resolution on 01.04.2007 to appoint the petitioner as Godown watchman by resolution No.101 dated 01.04.2007. It is submitted that the regular post in the cadre of Night Watchman was vacant on 01.09.2017 and the petitioner had applied and sent an application to



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appoint him in the said post by regularising his services and that was being considered and culminated into resolution of the third respondent.

5. The learned Additional Government Pleader for the respondents 1 and 2 submitted that the petitioner continued to work as Watchman-cum-driver in the third respondent Union. However, his services cannot be regularised without any scheme or policy. Even as per G.O.Ms.No.114 dated 06.05.2000 whenever the vacancies are called for, the appointments have to be made as per the guidelines laid down therein by the third respondent. The above Government Order does not say anything about the regularisation of the daily wagers who have been working for several years. However in G.O.Ms.No.22 dated 28.02.2006 those persons who have been rendered 10 years of service even as daily wager as on 01.01.2006 can be regularised by appointing them in a time scale of pay. However, the petitioner has been engaged only in the year 2007 on which date the scheme was not in force.

6. If the respondents engaged the services of the petitioner and like



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others as contingent staff, their services cannot be continued for years together like more than a decade. The services of the individuals should not be exploited because they are daily wagers. The petitioners have got no other livelihood and hence they are anxious atleast to save the daily wage basis engagement.

7. Irrespective of the regularisation of their services on account of long service, G.O.Ms.No.114 dated 06.05.2000 would empower the local bodies to make their appointment by following the guidelines laid down therein.

8. Since the petitioner has been selected by the third respondent and a resolution has been passed for appointing him as a Godown Watchman, the second respondent can atleast approve the third respondent's resolution in order to enable the petitioner to be appointed as Godown Watchman. But the approval sent to the second respondent has been rejected on 26.10.2017. The petitioner claims that he did not get any copy of the said order and hence, he is not even able to challenge the



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To

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R.N.MANJULA, J.

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