



WEB COPY



W.P.No.14488 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.14488 of 2020

and

W.M.P.Nos.17970 of 2020 & 3712 of 2021

T.Mohamed Shaffi

... Petitioner

Vs.

1. Tamil Nadu Constructions Workers Welfare Board,
Rep. by its Secretary,
No.8, Valluvarkottam High Road,
Nungambakkam,
Chennai - 600 034.

2. The Labour Officer,
Social Security Scheme,
Chennai - 600 102.

3. The Assistant Commencement of Labour,
Social Security Scheme,
Chennai - 600 102.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from disengaging the petitioner as Data Entry Operator on and from 01.10.2020 and consequently direct the respondents to engage the petitioner as Data Entry Operator on the same terms and conditions.



W.P.No.14488 of 2020

For Petitioner : Mr.M.Gnanasekar
For Respondents
For R1 : Mr.T.Chezhiyan,
Additional Government Pleader
For R2 and R3 : Ms.S.Valliammal

ORDER

The petitioner has filed this Writ Petition, forbearing the respondents from disengaging the petitioner as Data Entry Operator on and from 01.10.2020 and consequently direct the respondents to engage the petitioner as Data Entry Operator on the same terms and conditions.

2. Heard Mr.M.Gnanasekar, learned counsel for the petitioner, Mr.T.Chezhiyan, learned Additional Government Pleader appearing for the 1st respondent and Ms.S.Valliammal, learned counsel appearing for the Respondents 2 and 3.

3. Mr.M.Gnanasekar, learned counsel for the petitioner submitted that the petitioner has been working on daily wage basis as a Data Entry Operator for nearly 10 years with the 3rd respondent and his services are suddenly disengaged without any notice. Hence, the petitioner has filed this Writ Petition.



W.P.No.14488 of 2020

4. Mr.T.Chezhiyan, learned Additional Government Pleader appearing for the 1st respondent submitted that the issue raised in the Writ Petition is no longer a *res integra* as the matter is covered by the Judgment of this Court in ***W.P.No.15252 of 2018, dated 22.06.2018 in P.Shanthi Vs. the Commissioner of Labour & 2 others.*** In the said Judgment, it is held that the entitlement of right claimed by the similarly placed person like the petitioner, has been dealt in detail and it is observed that the petitioner therein can only participate in the selection process along with other candidates, if he is otherwise qualified in accordance with the recruitment notification, if any issued by the respondents. In fact, in the said case, the similarly placed persons have claimed priority while recruiting new staffs and no preference has been given. It is further held that the petitioner can only compete through open selection process.

5. Admittedly, the petitioner is a daily wage employee whose services have not been regularised so far. The prayer of the petitioner is not for regularisation, but in respect of his sudden disengagement.



W.P.No.14488 of 2020

6. The very employment of the petitioner as casual worker itself would show the contingent nature of the services. However, the necessity seems to have been continuing for several years and in such case, the respondents could have created a permanent post by absorbing the petitioner. Even in that case, the petitioner cannot claim automatic observation, unless there is any scheme or policy framed by the respondents in this regard. The only opportunity open to the petitioner is in view of his earlier experience, he shall participate in the selection process, if any conducted at any later point of time for the recruitment of the Data Entry Operator, with confidence.

7. With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

28.02.2024

Index: Yes / No
Speaking order / Non-speaking order
Neutral Citation : Yes / No
vum



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