



W.P.No.16820 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2024

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THE HON'BLE **MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

W.P.No.16820 of 2024

Gopinath

... Petitioner

Vs.

1.The Principal Secretary,  
Department of Rural Development and Panchayat Raj,  
Chennai.

2.The Director,  
Rural Development and Panchayat raj,  
Panagal House,  
Saidapet,  
Chennai – 15.

3.The District Collector,  
District Collectorate,  
Ranipet District.

4.The Additional Director (MGNREGS),  
Rural Development Department & Panchayat raj,  
Panagal building,  
Chennai.

5.The Project Director,  
District Rural Development Department,  
Collectorate Office,  
Ranipet District.

... Respondents



W.P.No.16820 of 2024

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the 1<sup>st</sup> and 2<sup>nd</sup> respondents to grant him an extension of his tenure as the MGNREGS Ombudsman following the due process established by the MGNREGS Act, specified Government order dated ROC.No.51831/2016/MGNREGS-2.3, 27.05.2024. Additionally, the petitioner requests protection from undue prejudice to his ability to fulfill his duties and obligations as the MGNREGS Ombudsman.

For Petitioner : Dr.M.Sathya Kumar

For Respondents : Mr.V.P.R.Elamparithi  
Additional Government Pleader  
for R1, R2, R4 and R5  
Mr.G.Velu  
for R3

### **ORDER**

This writ petition is filed for a mandamus directing the first and second respondents to grant him extension of his tenure as the MGNREGS Ombudsman following the due process established by the MGNREGS Act, specified in Government Order bearing reference No.ROC.No.51831/2016/MGNREGS-2.3, dated 27.05.2024.



W.P.No.16820 of 2024

WEB COPY 2. On a perusal of the affidavit filed in support of the writ petition, it can be seen that the petitioner was selected to the post of Ombudsman under the MGNREGS Act with effect from 04.04.2022. As per the Rules, the tenure on the said post is for the two years. However, it is extendable by another one year. Without extending the petitioner's service and without even informing the petitioner in advance that his services is not extended, suddenly, the petitioner was relieved from duty.

3. The learned counsel for the petitioner would submit that firstly even though the post may be tenure post, still these are Civil posts under the Government and therefore Article 311 of the Constitution of India is applicable. Therefore, when the petitioner is relived from service that cannot be done by an Authority lower than the appointing Authority.

4. Secondly, it is the contention of the petitioner that there is a specific procedure which is laid down in the MGNREGS Act itself for termination of service. When the petitioner's service have to be terminated, it cannot be done without affording an opportunity of being heard. Reliance is placed on the



*W.P.No.16820 of 2024*

circular dated 23.12.2021. Therefore, the learned counsel for the petitioner would further submit that the action of the respondents is illegal.

5. Per contra, the learned Additional Government Pleader taking notice on behalf of the first, second, fourth and fifth respondents would submit that the post is a tenure post. The extension is based on the satisfaction of the Government. The Government therefore constituted a Selection Committee and the Expert Committee went into the cases of all the 28 Ombudsmen appointed by the Government. By its report it recommended for the extension of service of one year, in respect of 21 Ombudsmen and in respect of 7 persons including the petitioner, it did not recommend the extension of service. The Government accepted the said report vide G.O.Ms.No.94, Rural Development and Panchayat Raj, dated 22.05.2024.

6. He would further submit that as a matter of fact similarly situated Ombudsmen one Mr.A.Ravi and two others even challenged the action of the Government is not extending the tenure by one year by filing a writ petition in W.P.(MD).Nos.5632 to 5634 of 2015. Vide order dated 27.08.2019, this Court had already held that such extension cannot be claimed and the writ petitions are dismissed.



W.P.No.16820 of 2024

WEB COPY 7. I have considered the submissions made by the learned counsel for the petitioner and the learned Additional Government Pleader for the first, second, fourth and fifth respondents and the learned counsel for the third respondent.

8. Firstly, the contention of the learned counsel for the petitioner regarding Article 311 of the Constitution of India is misplaced. This is not a case of termination of service on imposition of any punishment. On a perusal of the concerned Rules namely the revised guidelines of appointment of Ombudsman and Appellate Authority framed by the Government of India dated 20.03.2023, it can be seen vide Rule 2.2.9 that the appointment itself is for a tenure of two years. Therefore, when there was no termination of service and there is no punishment that was imposed on the petitioner, simply passing a reliving order, on completion of the tenure will not attract the Article 311 of the Constitution of India.

9. The second submission of the learned counsel for the petitioner regarding opportunity of hearing is also liable to be rejected, because, it is not



*W.P.No.16820 of 2024*

any punishment which is imposed on the petitioner. The respondents simply did not extend the service of the petitioner.

10. As rightly contended by the learned Additional Government Pleader for the respondents, extension of tenure is not a right of the petitioner, but, it should be on the mutual agreement basis. Already the said question has been decided by the order of the Madurai Bench of this Court dated 27.08.2019 referred to supra.

11. In view thereof, finding no merits. Therefore, this writ petition stands dismissed. No costs.

**27.06.2024**

Neutral Citation: No  
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W.P.No.16820 of 2024

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**D.BHARATHA CHAKRAVARTHY, J.**

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W.P.No.16820 of 2024

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