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W.P.No.17059 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.17059 of 2023

R.Bagavathikumar

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by the Secretary, Public Works Departments,
Fort St. George, Chennai – 600 009.

2.The Engineer in Chief & Chief Engineer (General),
Water Resources Department,
Chepauk, Chennai – 600 005.

2.The Engineer in Chief & Chief Engineer (General),
Public Works Department,
Chepauk, Chennai – 600 005.

4.The Executive Engineer,
Public Work Department,
Building Construction and Maintenance Division,
Nagarcoil.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings in Letter No.Tha3/1056/2020(1025) dated 08.10.2021 on the file of the 4th respondent and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to regularize the service of the petitioner with effect from the date of their initial appointment with all monetary and service benefits.



For petitioner : Mr.M.Rakhi

For Respondents : Mr.P.Balathandayutham
Special Government Pleader

ORDER

This writ petition has been filed challenging the proceedings of the 4th respondent in Letter No.Tha3/1056/2020(1025), dated 08.10.2021 and for a consequential direction to the respondents to regularize the service of the petitioner with effect from the date of his initial appointment with all monetary and service benefits.

2.Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

3.The case of the petitioner is that he entered the services of the respondent department on 01.01.1993 as NMR. His services were not regularized even though he was engaged for more than 10 years. Therefore, the petitioner along with 11 others filed W.P.No.20969 of 2008 before this Court. Directions were issued in this writ petition to consider the representations made by the petitioners therein seeking for regularization.



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4.Pursuant to the order passed in this writ petition on 29.09.2009, services of 11 others were regularized. But however, the petitioner's services was not regularized. Therefore, the petitioner made yet another representation in this regard on 26.09.2014. Since, the same did not evoke any response, the petitioner filed W.P.No.31553 of 2014.

5.This Court by an order dated 22.01.2021, disposed of the writ petition with a direction to the respondents to consider the representation made by the petitioner and to pass orders within a period of eight weeks.

6.Pursuant to the above order, the impugned proceedings dated 08.10.2021 came to be issued by the 4th respondent. The 4th respondent has come to the conclusion that since the petitioner did not come through employment exchange, his services cannot be regularized. The said order has been put to challenge.

7.In the considered view of this Court, totally 12 persons including the present writ petitioner had approached this Court on the very same ground seeking for regularization. Pursuant to the directions issued by this Court, the services of 11 others were regularized. The services of the petitioner alone was not regularized on the ground that he did not come



through employment exchange.

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8.The learned counsel for the petitioner asserted that even in so far as the other 11 persons are concerned, they did not come through employment exchange. To substantiate the same, the learned counsel also brought to the notice of this Court the earlier order passed by the Hon'ble Division Bench of this Court in W.A.(MD).Nos.337 & 338 of 2021, wherein it is found that all those persons were brought in through a private contract and not through employment exchange.

9.It is now too well settled that the yardstick that is used for one person must also be used for the other, provided that he also stands on the same footing. If there is any violation, it will tantamount to violating Article 14 of the Constitution of India. When 11 others were found fit to be regularized even though they did not come through employment exchange, the petitioner alone cannot be singled out and rejected from being regularized by developing a new ground which was not put against 11 other persons. Therefore, the claim of the petitioner must be considered on par with 11 other persons who were regularized pursuant to the directions issued by this Court.



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N.ANAND VENKATESH, J.

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