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W.P.No.18432 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **VIVEK KUMAR SINGH**

W.P.No.18432 of 2021

M.Loganathan

...Petitioner

-Vs-

1.The Secretary,
Municipal Administration & Water Supply Department,
Government of Tamilnadu,
Saint Fort George, Chennai 9.

2.The Commissioner,
Coimbatore Corporation,
Coimbatore.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondents 1 and 2 made in Na.Ka.No.3129/2021/4(கி), dated 19.03.2021 and Letter No.9538/MC4/2021-6 dated 07.04.2021 and quash the same and further directing the respondents to regularize the services of the petitioner by absorbing him in Coimbatore Corporation.

For Petitioner : Mr.S.Kalaiaarasi

For Respondents : Mr.S.Rajesh, GA for R1
Mr.R.U.Dinesh Rajkumar, AGP for R2



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ORDER

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This Writ Petition has been filed challenging the order passed by the respondents in Na.Ka.No.3129/2021/சு4(கி), dated 19.03.2021 and Letter No.9538/MC4/2021-6 dated 07.04.2021 and to direct the respondents to regularize the service of the petitioner by absorbing him in Coimbatore Corporation.

2. Heard the learned counsel appearing on either side and also perused the materials available on record.

3. The case of the petitioner is that the petitioner was initially employed as tank operator in the erstwhile Kalappatti Town Panchayat. The said Kalappatti Town Panchayat was merged with Coimbatore Corporation. It is averred by the petitioner that he was continuing in the said post under the Coimbatore Corporation in ward No.34. However, at the time of merger, the petitioner was working directly under the control of the Town Panchayat and he received salary and other benefits from the Town Panchayat. Before merger of Town Panchayat with the Coimbatore Corporation, the Executive Officer of Town Panchayat, by proceedings dated 12.10.2011, sent a list of



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temporary staff of the Town Panchayat to the Coimbatore Corporation, wherein the name of the petitioner was also mentioned, however, only 4 members alone were absorbed in the Coimbatore Corporation. Most of the persons including the petitioner were working from 1995 onwards, but the persons, who were absorbed from the list of temporary candidates had joined the service only in the year 2007 and thereafter.

4. It is the grievance of the petitioner that though the executive officer forwarded the list of temporary employees including the petitioner for regular employment in the Coimbatore Corporation, the petitioner was not continuously engaged to work and till date, he was not absorbed. Hence, the petitioner along with other tank operators made a representation to the District Collector on 26.12.2011 requesting for their regularization in the Corporation. For which, the Corporation had sent replies on 24.01.2012 and 14.03.2013, stating that the entire recruitment to the Corporation was being made only through employment exchange. Thereafter, the petitioner along with others made a representation for their absorption / regularization to the Coimbatore Corporation on 08.01.2014, but no fruitful response. Against which, the petitioner along with others filed a Writ Petition before this Court in W.P.No.10646 of



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2014 and this Court, by an order dated 14.12.2020, had disposed the said petition by directing the first respondent to consider the representation of the petitioners therein dated 08.01.2014 within a period of twelve weeks. After receipt of the order dated 14.12.2020, the petitioner had individually given a representation to the second respondent seeking absorption and regularization, but the second respondent without considering any of the documents of the petitioner, on 19.03.2021 reiterated the same ground of rejection as done in the year 2014 that the recruitment can be done only through employment exchange. Since there is inaction on the petitioner's representation, he has again addressed a letter to the Secretary of Municipal Administration and Water Supply Department, Secretariat, Chennai. The first respondent on 07.04.2021 also passed the similar order of rejection. Aggrieved over the same, the petitioner has filed the present petition.

5. The learned counsel for the petitioner would submit that the respondents did not consider even a single point adduced by the petitioner. The petitioner was appointed as tank operator in the erstwhile Kalapatty Town Panchayat in 1995 and after the merger with Coimbatore Corporation on 25.10.2011, the petitioner was working under the



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contractors. Most of the persons including the petitioner were working from 1995 onwards, but the persons, who were absorbed from the list of temporary candidates had joined only in 2007 and thereafter. The petitioner was appointed as daily rated NMR worker during the year 1996. Though the Government has passed order in G.O.Ms.No.21, Municipal Administration and Water Supply (MC3) Department, dated 23.02.2006, regularizing the services of workers on consolidated pay and NMRs on daily wages, the respondents 1 and 2 have erroneously rejected the representation of the petitioner.

6. The learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that the post of water tank operator is not a sanctioned post insofar as Kalapatti Panchayat as per the records available. The petitioner has failed to prove that he was employed by the Kalapatty Panchayat for more than 20 years to a sanctioned post. This Court by an order dated 14.12.2020 had also observed the submissions made on behalf of the respondents that there is no scheme available for absorbing the employees of the erstwhile Town Panchayat. Even according to the petitioner, he was appointed only as temporary daily wages tank operator. Hence, the prayer of the petitioner, who was



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working under the contract basis cannot be considered.

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7. A perusal of the records reveals that the petitioner was appointed as tank operator and working under the Corporation only on contract basis and as per the Corporation Service Rules, the appointment of employees on temporary service will be considered only through Employment Exchange. When the petitioner's grievance has already been negated by an order dated 19.03.2021, once again the petitioner cannot re-agitate the same grievance. Therefore, I am unable to accept the contentions of the learned counsel for the petitioner that the petitioner was working as tank operator under the Coimbatore Corporation on regular basis.

8. In view of the above, this Writ Petition is dismissed. No costs.

12.08.2024

Internet: Yes

Index : Yes/No

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To

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2.The Commissioner,
Coimbatore Corporation,
Coimbatore.

VIVEK KUMAR SINGH. J.

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