



W.P.No.19487 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.19487 of 2022
W.M.P.Nos.18783 & 18784 of 2022

P.Venkatesan

...Petitioner

-Vs -

1. The State of Tamil Nadu,
Rep by its Secretary to Government,
Rural Development and
Panchayat Raj Department,
Fort St. George,
Chennai – 600 009.
2. The Director of Rural Development
and Panchayat Raj,
Panagal Building,
Saidapet, Chennai – 600 015.
3. The District Collector,
Collectorate,
A Block, 2nd Floor,
Vellore – 632 009.
4. The District Collector,
Collectorate,
Kellys Road,
Navalpur,
Ranipet – 632 401.

... Respondents



W.P.No.19487 of 2022

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the third and fourth respondents in connection with the order passed by the fourth respondent in Na.Ka.PA5/3579/2016 dated 06.07.2022, and quash the same insofar as the petitioner is concerned and direct the respondents to reinstate the petitioner in service forthwith with full back wages, continuity of service and consequently regularize the service of the petitioner with all consequent service, monetary and attendant benefits.

For Petitioner : Mr.L.P.Shanmugasundaram

For Respondents : Mr.R.L.Karthika
Government Advocate

ORDER

This writ petition has been filed challenging the order passed by the fourth respondent dated 06.07.2022, thereby removed the petitioner from service.

2. The petitioner was initially appointed as Works Assistant in Kaveripakkam Panchayat Union, Ranipet District on a daily wage basis. The first respondent issued G.O.(Standing)No.69, Rural Development and Panchayat Raj Department, dated 06.08.2012, to regularize the



W.P.No.19487 of 2022

service of the petitioner on his completion of more than ten years of service along with monetary benefits. The third respondent by its communication dated 04.09.2012, had regularized his service and appointed him as Record Clerk in Kaniyambadi Panchayat Union, Vellore District. Accordingly, on 04.09.2012, he was absorbed in regular service with regular time scale of pay.

3. While being so, the third respondent by his communication dated 28.07.2014, informed the details of daily wages workers working in Vellore district panchayat union, who were appointed prior to 26.03.1997, for verification and confirmation of their service records. In that communication, the date of appointment of the petitioner was mentioned as 01.07.2001, though the petitioner was appointed as early as on 01.11.1996. Accordingly, the third respondent published the seniority list on 10.03.2020 to the post of Record Clerk in the district level in which, the petitioner name was placed at Sl.No.8. He was also found eligible in the subsequent seniority list dated 28.03.2022 and his name was placed in Sl.No.3. Therefore, the petitioner is eligible to continue in service as a Record Clerk.



W.P.No.19487 of 2022

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4. In the mean time, the petitioner was served with show cause notice dated 31.12.2021, alleging that the petitioner had joined in the service after 1997 and as such, the petitioner failed to fulfill the certain eligibility conditions for regularizing his service. The petitioner submitted detailed explanation on 04.01.2022. However, without considering the same, the petitioner was removed from service by an order dated 06.07.2022. Hence, the petitioner filed this petition with the above said prayer.

5. Heard the learned counsel appearing on either side and perused the material placed before this Court.

6. On perusal of counter affidavit filed by the fourth respondent revealed that while the petitioner submitted his explanation, he failed to produce any evidence to show that he was appointed on daily wage basis prior to 01.07.2001. Therefore, he had not fulfilled the conditions mentioned in G.O.Ms.No.69, Rural Development and Panchayat Raj (E5) Department, dated 06.08.2012. Therefore, the



W.P.No.19487 of 2022

petitioner was removed from service.

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7. In the similar mater, the Hon'ble Division Bench of this Court in the case of ***M.Shanmugam & ors Vs. Government of Tamil Nadu and ors*** in ***W.A.No.1458 of 2019*** dated 20.01.2023, held as follows:-

“20.We have come across several cases where such temporary daily wage employees are removed from services and replaced by others depending upon the political situations relevant at that point of time. Fortunately, for these appellants despite swinging of the the political pedulum, they have been continuing to work. Even though their initial service was protected by the order of the Tribunal, atleast from 01.12.2010 till date for nearly 12 years, there was no protection for their services by means of any order of Court.

21.The Hon'ble Supreme Court even after the judgment in Umadevi had held that in appropriate cases, it will be open to regularise the services of temporary daily rated employees if it is shown that the nature of the work done by them was permanent and they were served for more than 10 years. This Court has also issued several directions in this regard.



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W.P.No.19487 of 2022

22.No doubt, the exploitation of this daily rated employees by the Government should be stopped. But, at the same time, if we refuse to regularize the persons like the appellants, who have put in 20 years of service as daily rated employees, we would only be encouraging exploitation by the state. If the private individual running an industry with 20 employees cannot have temporary employees and the Tamil Nadu Industrial Employees (Conferment Permanent Status) Act would apply to them, we see no reason to allow those persons, who are working under the State or its wings to suffer the temporary employment for a span of 10 years and more.

23.The learned Government Advocate would submit that if we direct regularisation of the appellants that would open the flood gates. We are alive to that fact. The Government is guilty of exploitation of atleast these four individuals for more than 22 years now. If their service had been regularized, they would have been entitled to various benefits including increments, Dearness Allowance etc. The Government should be a model employer. We find that the Government has been a worse employer in the case of these four appellants and it



W.P.No.19487 of 2022

had been exploiting them for more than 22 years. Whatever is the difference between the daily wages that has been paid to the appellants and what should have been paid to them if they had been permanent employees would be the illegal gain made by the Government at the cost of these appellants. We should not be misunderstood as being sentimental or emotional, we are only sympathetic. Sympathetic to the cause of such persons, who are exploited by the mighty state.

.....
25.In fine, this Writ Appeal is allowed, the order of the Writ Court is set aside. There will be a direction to the respondents to regularize the service of the appellants with effect from the date on which they had completed 10 years of service from the date of their initial appointment. It is made clear that the appellants would be entitled to monetary benefits of such regularization only from 03.12.2018. In the circumstances, we spare costs with the fond hope that the Government will discontinue exploitation of its citizens by employing them as daily rated employees atleast in future”

The above judgment squarely applicable to the case on hand. Thus, it is clear that the impugned order passed by the respondent cannot be



W.P.No.19487 of 2022

sustained and it is liable to be quashed.

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8. That apart, even as per the records produced by the third respondent, it was mentioned that the petitioner had joined service on 01.11.1996. Therefore, the order impugned in this petition is against the government order passed in G.O.Ms.No.69, Rural Development and Panchayat Raj (E5) Department, dated 06.08.2012. In view of the above, the impugned order cannot be sustained and it is liable to be quashed.

9. Accordingly, the impugned order passed by the fourth respondent in Na.Ka.PA5/3579/2016 dated 06.07.2022, is hereby quashed. The respondents are directed to reinstate the petitioner into service forthwith, with backwages and continuity of service, monetary and other attendant benefits.

10. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

06.03.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order



W.P.No.19487 of 2022

Note : Issue order copy on or before 11.03.2024

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W.P.No.19487 of 2022

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G.K.ILANTHIRAIYAN. J.

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