



W.P.No.8684 of 2016

IN THE HIGH COURT AT JUDICATURE AT MADRAS

DATED: 18.10.2024

CORUM

THE HON'BLE MRS.JUSTICE N.MALA

W.P.No.8684 of 2016

P.Kavimany

...Petitioner

Vs.

1.Union of India,
Rep. by the Chief Secretary to Government,
Chief Secretariat,
Puducherry – 1.

2.The Secretary to Government,
Local Administration,
Government of Puducherry,
Puducherry-1.

3.The Commissioner,
Bohour Commune Panchayat,
Bohour,
Puducherry.

4.P.Candavel,
Bill Collector Grade- II,
Ariyankuppam Commune Panchayat,
Puducherry.

...Respondents



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Writ petition is filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus directing the respondents to regularize the services of the petitioner either as Draftsman or Overseer in the relevant grade as it has been done in the case of similar employees with all consequential monetary and other service benefits.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.A.Tamilvanan

Additional Government Pleader (Pondy)
for RR 1 to 3

Mr.Prakash Adiapadam
for R4

ORDER

Writ petition is filed for issuance of a writ of mandamus directing the respondent to regularize the services of the petitioner either as Draftsman or Overseer grade and other consequential benefits.

2. The petitioner was selected as Technical Assistant Grade-I in the meeting held on 21.03.2005 and thereafter continued to work as Technical Assistant Grade-I. The Government vide G.O.Ms.No.15/LAS/2015-16 dated 31.07.2015 regularized 55 Technical Assistants, 43 Mazdoors and 16 Masteries.

While regularizing the services, petitioner was regularized in the post of LDC in



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the pay Scale- 5,200 – 20,200 with the Grade Pay of 1,900, whereas, the 4th respondent was regularized as Bill Collector Grade-II, in the scale of 5,200 – 20,200. According to the petitioner, there was equivalent grade of Draftsman and Overseer posts available in the Bahour Commune Panchayat where the petitioner was already working. The petitioner aggrieved by his regularization to the post of LDC instead of regularizing his services in the post of Draftsman and Overseer, has filed the above writ petition for the aforesaid relief.

3. The 3rd respondent filed counter which was adopted by the respondents 1 & 2. The 3rd respondent stated that Government examined and considered regularization of the staff working under P.S Charges (Work Charged Establishment) as one time measure and issued order in G.O.Ms.No.15/LAS/2015-16 dated 31.07.2015 of the Local Administration Secretariat. At the time of regularization in the petitioners Panchayat i.e. Bahour Commune Panchayat there was no vacancy in the post of Draftsman or Overseer. The petitioner's willingness was obtained for regularization for the



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post of LDC in Mannadipet Commune Panchayat and the petitioner willingly

joined as LDC in Mannadipet Commune Panchayat. The respondents therefore

stated that petitioner having voluntarily chosen to get regularized in the post of

LDC was estopped from seeking regularization to the post of Draftsman or

Overseer in the said Panchayat. The respondents therefore stated that there were

no merits in the writ petition and same deserved to be dismissed.

4. Learned counsel for the petitioner submitted that petitioner was eligible for the post of Draftsman or Overseer and the said posts were available in the Bahour Commune Panchayat where he was already working and therefore the petitioner ought to have been regularized in the said post in Bahour Commune Panchayat.

5. Learned counsel for the respondents on the other hand submitted that there was no vacancy in the post of Draftsman or Overseer in Bahour Commune Panchayat and therefore the petitioner was accommodated in Mannadipet



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Commune Panchayat as LDC for which his willingness was taken. The petitioner having accepted the said post of LDC without any demur was estopped from seeking regularization in the post of Draftsman or Overseer.

6. I have heard both the learned counsels and perused the records.

7. The respondents 1 to 3 produced the file and it is seen from the file that in Bahour Commune Panchayat, where the petitioner was working, there was no vacancy in the post of Draftsman or Overseer at the relevant time. The Government as one time measure issued G.O.Ms.No.15/LAS/2015-16, dated 31.07.2015 for regularization of the staff working under P.S Charges (Work Charged Establishment). The petitioner was working in Bahour Commune Panchayat, and as there was no vacancy in the post of Draftsman or Overseer in Bahour Commune Panchayat, the petitioner was offered regularization in the post of LDC in Mannadipet Commune Panchayat and the petitioner also willingly accepted the same.



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8. As rightly contended by the learned counsel for the respondents, when there was no vacancy in the post of Draftsman or Overseer in Bahour Commune Panchayat, the prayer of the petitioner for regularization for the post of Draftsman or Overseer cannot be countenanced. Moreover, the petitioner having accepted the regularization in the post of LDC in Mannadipet Commune Panchayat cannot now seek for regularization for the post which was not available at the relevant time. I therefore find no merit in the writ petition.

Accordingly, writ petition is dismissed. No costs.

18.10.2024

dsn

Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No



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To

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Union of India,
Chief Secretariat,
Puducherry – 1.

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N.MALA,J.

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