



Writ Appeal No.90 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON : 27.06.2024

PRONOUNCED ON : 09.07.2024

CORAM

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

Writ Appeal No.90 of 2023

N.Raja Bernatsha

... Appellant

Vs

1.The District Collector,
District Collector Office,
Dharmapuri,
Dharmapuri District – 636 701.

2.The Director,
Town Panchayat Department,
4th Block, Kuralagam,
Chennai – 600 108.

3.The Executive Director,
Town Panchayat Office,
Paupparapatti Post,
Pennagaram Taluk,
Dharmapuri – 636 809.

... Respondents



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PRAAYER: Writ Appeal has been filed under Clause 15 of Letter Patent against the order dated 05.09.2022 made in W.P.No.2378 of 2016.

For Appellant : Mr.Tharun Roshan for
Mr.T.Karunakaran

For Respondents : Mr.M.Bindran AGP for RR1&2
Mr.S.Yashwanth AGP for R3

JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU., J)

This instant Intra-Court Appeal had been preferred by the un-
successful Writ Petitioner wherein his claim for retrospective reg-
ularisation of his services had been rejected.

2.Heard Mr.Tharun Roshan learned counsel for
Mr.T.Karunakaran, learned counsel appearing for the appellant,
Mr.M.Bindran, learned Additional Government Pleader appearing on behalf
of the first and second respondents and Mr.S.Yashwanth, learned Additional
Government Pleader appearing on behalf of the third respondent.

3.The learned counsel appearing for the appellant would submit that
the appellant had registered his name in the District Employment Ex-



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change, Dharmapuri and that as per his employment seniority, he had been sponsored for the appointment to the post of Sanitary Worker in Papparapatti Town Panchayat. He would contend that he had also participated and attended the interview, but however, the appellant was not appointed. Therefore, he had approached this Court by way of Writ Petition in W.P.No.280 of 2012, wherein an order of interim stay of any further recruitment had been granted and finally the Writ Petition was disposed of on 28.03.2014, directing the appellant to appear before the Dean of the Government Medical College, Dharmapuri and a report was also called for on the same. Further, on receipt of the report from the Medical Board, the respondents was directed to pass appropriate orders. Since, no orders were passed, the appellant had moved this Court by initiating Contempt Petition No.2056 of 2014. In the interregnum on 03.03.2015, an order of appointment was issued to the appellant, however, only w.e.f., 03.03.2015. The Contempt Petition was also closed by this Court as the order in the Writ Petition had been complied with, and liberty was given to the appellant to make appropriate representation. Pursuant to the said order, the appellant had made a representation to the respondents. However, the claim of the



4. The learned counsel appearing for the appellant would vehemently contend that it was no fault of him that he had not been appointed to the post of Sanitary Worker, even though he was an unitary candidate sponsored through the employment exchange and no other candidate was available in the category. The orders of appointment had been issued only after the conclusion of the contempt proceedings. Had he been appointed pursuant to the order of the court, he would have been appointed much earlier and would have acquired seniority over a person who had been appointed on compassionate grounds in the year 2013. In view of the irregularity committed by the respondent, he had suffered in the seniority and therefore, the respondent should be directed to regularise the services of the appellant on and from the date on which he had been interviewed i.e., 20.12.2011, and should be paid the backwages and also his seniority refixed accordingly. The learned Judge without appreciating the same, had held that the appellant does



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not have a right to claim seniority over a person, who was appointed in 2013, as the said recruitment was a different recruitment process and the appellant's recruitment was a different process. Therefore, he would seek interference with the order passed by the learned Single Judge.

5.Countering his arguments, the learned Additional Government Pleader appearing for the respondents would submit that the appellant cannot seek for retrospective regularisation, as his appointment was only on 03.03.2015. A person cannot seek for a regularisation on an anterior date as he had not worked on the said date. Further he would contend that the appellant had been beneficially employed as a Sanitary Worker in a Government High School, Thirumulvadi, and had also placed on record the documents to that effect. He had further contended that when the appellant does not have a right to seek regularisation on an anterior date of the period which he had not worked, he is also not entitled to monetary benefits, not only on the score of his non-working, but also on the score that he had been beneficially employed till the order of appointment issued by the respondent on 03.03.2015. Hence, he would seek that there is no infirmity in the order



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passed by the learned Single Judge and prays this Court to dismiss this Intra Court Appeal.

6.We have considered the rival submissions made by the learned counsel appearing on either side and perused the materials placed on record.

7.The claim of the appellant is seeking regularisation from an anterior date, since he had been the only sponsored candidate in the selection process and was denied appointment without any valid reason. It may be true that this Court considering the peculiar facts of the case had directed to constitute a Medical Board by the Dean, Dharmapuri Medical College and submit a report. Based upon the report, the respondent was directed to pass appropriate orders. Infact pursuant to the said order, the appellant had also appeared before the Medical Board and based on the report of the Medical Board, the appellant had been granted appointment on 03.03.2015. It is also not disputed by the learned counsel appearing for the appellant that the appellant had been beneficially employed as a Sanitary Worker in a Government High School prior to his employment under the respondent. As rightly pointed out by the learned Additional Gov-



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ernment Pleader, the appellant cannot seek for regularisation on an anterior date, as he had not worked with the respondent Department in any capacity.

8. When that being so, the claim of the appellant for regularisation to an anterior date cannot be entertained by this Court. Further, since the undisputed fact is that the appellant had been beneficially employed elsewhere during that crucial time, we are also of the opinion that he could not be entitled to any backwages much less any monetary compensation for his non-employment by the respondent. Apart from the reasons assigned by the learned Single Judge and for the foregoing reasons, we do not find any infirmity in the order passed by the learned Single Judge and accordingly, this Intra Court Appeal is dismissed. However, there shall be no order as to costs.

(D.K.K.,J.) (K.B., J.)

09.07.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation:Yes/No
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and
K.KUMARESH BABU.,J.

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To

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