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W.P.(MD) No.9927 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.9927 of 2021

and

W.M.P.(MD) Nos.7620 of 2021 & 25961 of 2023

Arumugham

... Petitioner

-vs-

- 1.State of Tamil Nadu
rep.by its Principal Secretary
to the Government
Municipal Administration
and Water Supply Department
Fort St.George, Chennai-600 009
- 2.The Director
Directorate of Panchayaths
Kuralagam
Chennai-600 108
- 3.The District Collector
Kanyakumari District
Nagercoil
Pin-629 001



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4.The Assistant Director of
Town Panchayath
Nagercoil Zone
Nagercoil
Pin-629 001
Kanyakumari District

5.The Executive Officer
Anchugramam Town Panchayath
Anchugramam Post
Pin-629 401
Kanyakumari District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order of the fifth respondent in Na.Ka.No.135/2015, dated 10.12.2015, vide which petitioner's request for the regularization of service was rejected and quash the same and consequently direct the respondents to regularize petitioner's service with effect from 01.01. 2002 on time scale basis in compliance of G.O.MS.No.60, Rural Development and Panchayath Raj Department, dated 23.06.2006.

For Petitioner : Mr.M.P.Hari Prasad

For Respondents : Ms.D.Farjana Ghoushia
Special Government Pleader



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ORDER

This writ petition has been filed challenging the order, dated 10.12.2015, passed by the fifth respondent, rejecting the request of the petitioner for regularization of her service, on the ground that during the period from May, 2003 to December, 2004, she was not in service.

2. Earlier, the petitioner was appointed as a Sanitary Worker on daily wage basis and thereafter, on consolidated basis. Admittedly, as per the Government Order, for regularization of her service, she ought to have been in continuous service for a period of three years. Earlier, the petitioner had filed a writ petition before this Court in W.P.(MD) No.5493 of 2016. In the said writ petition as well, the petitioner sought for a direction to the respondents to regularize her service with effect from 01.01.2002 on time scale basis, as sought for in this writ petition. A categorical stand was taken by the respondents in the said writ petition that the petitioner had abandoned her work from 01.05.2003 to 01.12.2004. By order, dated 25.09.2019, passed in W.P.(MD) No.5493 of 2016, this Court dismissed the writ petition filed by the petitioner after recording the fact that the petitioner had abandoned her work from 01.05.2003 to 01.12.2004 and that she had also not filed any reply



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affidavit denying the averments made in the counter affidavit filed by the fifth respondent in the said writ petition. It was also recorded in the said order that the petitioner also did not challenge the proceedings, dated 10.12.2015, passed by the fifth respondent, which is challenged in this writ petition and in view of the same, the learned Single Judge of this Court, while passing the final order, dated 25.09.2019 in W.P.(MD) No.5493 of 2016, dismissed the said writ petition. Admittedly, no writ appeal was filed against the said order of the learned Single Judge by the petitioner. The order came to be passed on 25.09.2019 and the present writ petition has been filed in the year 2021 challenging the proceedings of the fifth respondent, dated 10.12.2015.

3. Admittedly, as seen from the documents produced by the petitioner, even though she claims that she was in continuous service and was doing duty for the period from 01.05.2003 to 01.12.2004, she had not produced any documentary evidence to prove the same. Neither the cheques issued in her favour towards salary for the said period nor Bank Statements have been produced to prove that she was in employment from 01.05.2003 to 01.12.2004. To seek for regularization of service, it is essential that the petitioner had been in employment for the period from 01.05.2003 to



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01.12.2004. Though there is some difference with regard to the dates disclosed in the counter affidavit, that will not have any bearing, as admittedly, the petitioner has not proved through any documentary evidence that she was in employment during the period from 01.05.2003 to 01.12.2004. The petitioner had also not filed any writ appeal aggrieved by the order dated 25.09.2019, passed by this Court in W.P.(MD) No.5493 of 2016, wherein the petitioner had sought the relief of regularization of her service with effect from 01.01.2002 and the same came to be dismissed by the learned Single Judge of this Court.

4. For the foregoing reasons, there is no merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

27.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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ABDUL QUDDHOSE, J.

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