



W.P.(MD).No.22598 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.22598 of 2022

N.Selvaraj

Vs.

... Petitioner

1. The Additional Chief Secretary/
Commissioner of Revenue Administration,
Ezhilagam, Chennai – 5.
2. The District Collector,
Ramanathapuram,
Ramanathapuram District.
3. The Personal Assistant to the District Collector
(General)
Ramanathapuram District,
Ramanathapuram.
4. The Sub-Collector,
Office of the Sub -Collector,
Paramakudi,
Ramanathapuram District.
5. The Tahsildar,
Paramakudi,
Ramanathapuram District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ni.Mu.A3/18835/2018, dated 30.11.2021 on the file of the second respondent and quash the same as illegal and consequently for a direction, directing the respondents to disburse the retirement benefits and pension to the petitioner in the post of Masalchi within the time period stipulated by this Court.

For Petitioner : Mr.T.Aswin Rajasimman
For Respondents : Mr.S..Shanmugavel
Additional Government Pleader

ORDER

The instant writ petition has been filed by a Masalchi, challenging the order dated 30.11.2021 passed by the second respondent, wherein his request for regularizing his services and bringing him under the time scale has been rejected.

2. The petitioner herein was originally appointed as a Masalchi on temporary basis by the proceedings of Revenue Divisional Officer, Paramakudi, on 10.07.1985. Later, by the proceedings of the Tahsildar,



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Paramakudi, a recommendation was made to the Assistant Collector, Paramakudi for regularizing the services of the writ petitioner. On 03.10.1991, the Tahsildar has addressed another communication to the Revenue Divisional Officer, Paramakudi, to the effect that the petitioner was already granted promotion to the post of Office Assistant and his services were regularized as Office Assistant with effect from 20.09.1990. However, there are no records to indicate that such recommendation of Tahsildar was accepted by the Revenue Divisional Officer at any point of time for regularizing the services of the writ petitioner as Office Assistant.

3. The petitioner was promoted as a Jeep Driver on 02.01.1996 and his probation in the post of Driver was declared on 23.10.1999. The petitioner was conferred with Selection Grade for the post of Jeep Driver by way of proceedings of the P.A to the District Collector, dated 12.01.2010.

4. The petitioner was issued with a charge memo under Rule 17 (b) Tamil Nadu Civil Services (Discipline and Appeal) Rules, on 11.03.2011. The petitioner has submitted his explanation and after conducting enquiry, final orders were passed by the P.A to the District Collector, Ramanathapuram on



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08.03.2013 imposing a punishment of reduction in rank from the post of Jeep Driver to Masalchi.

5. On 20.03.2013, P.A to the District Collector has passed an order appointing the writ petitioner as Masalchi on daily wage basis in the office of Tahsildar, Paramakudi. This reduction in rank order or the appointment order issued to the writ petitioner has not been challenged.

6. The petitioner herein has sent a representation on 13.04.2018 requesting the District Collector to regularize his services in the post of Masalchi by bringing him under the time scale of pay. Though the same was recommended by the proceedings of Revenue Divisional Officer, dated 20.04.2018, under the impugned order, dated 30.11.2021, the said request was rejected by the District Collector. Challenging the said order, the present writ petition has been filed.

7. According to the learned counsel appearing for the writ petitioner, when he was imposed with a punishment of reduction in rank from the post of Jeep Driver to the post of Masalchi, he should have been accommodated as a



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regular employee and not as a daily wager. He further contended that earlier, his services have been regularised in the said post and therefore, the petitioner ought not to have been appointed as a daily wager in the post of Masalchi.

8. Per contra, the learned Additional Government Pleader appearing for the respondents herein brought to the notice of this Court that the petitioner was appointed as a Masalchi by the proceedings of the P.A to the District Collector. He further contended that though the petitioner was appointed as a Masalchi on daily basis in the year 2013, he did not attend duty till August 2017. On 07.08.2017, the petitioner has given a representation to the District Collector that he was again re-appointed as Masalchi. Pursuant to the said request, another order was passed on 28.12.2017 re-appointing the petitioner as Masalchi on daily wages. Since the petitioner has been appointed as a Masalchi on daily wage basis, both in the year 2013 as well as in the year 2017, and those orders having not been challenged, the request of the writ petitioner for regularisation of the services at this length of time would not arise.



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9. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

10. The petitioner has been originally appointed as a Masalchi on daily wage basis. There are no records to establish that he was regularised in the post of Masalchi by any one of the authorities. All the records produced before the Court reveal that there were recommendations by the concerned authority to the higher official for regularizing the services of the writ petitioner in the said post. It is not known as to how the writ petitioner, without being regularized in the post of Masalchi, was promoted to the post of Office Assistant, then Jeep driver, then granted Selection Grade in the post of Jeep Driver. In such circumstances, the authorities found that the petitioner has produced fake certificate relating to the fact that he had passed 8th Standard and thereafter, decided to impose punishment of reduction in rank. Since, the petitioner's services have not been regularised in the category of Masalchi, when he is reduced in rank, naturally he has to go back to the post of Masalchi on daily wages.



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11. Only in view of the above said facts, on 20.03.2013, P.A to the District Collector has appointed the petitioner as Masalchi on daily wages. Even thereafter, the petitioner has not chosen either to accept the order and join duty or to challenge the said order. The petitioner again approached the authorities for re-issuance of order for appointment as Masalchi. Accepting the request, a fresh order has been issued on 28.12.2017 appointing the petitioner as Masalchi on daily wage basis. Therefore, it is clear that the appointment of the petitioner is traceable only to the order dated 28.12.2017 and he has attained superannuation in the year 2019. Even assuming that the petitioner was appointed as Masalchi on daily wage basis in the year 2013, before completing 10 years of service, the petitioner has attained superannuation. In such circumstances, the question of regularizing the services of the writ petitioner in the category of Masalchi or conferring the pensionary benefits upon the writ petitioner does not arise. Hence, this writ petition is misconceived and there are no merits in the writ petition.



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12. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs.

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NCC : Yes/No
Index : Yes / No
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