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WA NO. 1175 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-02-2025

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THE HONOURABLE MR JUSTICE S. S. SUNDAR

AND

THE HONOURABLE MR JUSTICE C. SARAVANAN

WA NO. 1175 of 2023

and

CMP.No.11928 of 2023

1. The Principal Secretary to The Government,
Rural Development and Rural Department,
Forst St.George, Chennai 9.

2. The Director,
Rural Development and Rural Department,
Forst St.George, Chennai 9.

3. The District Collector,
Namakkal District, Namakkal.

4. The Project Director,
District Rural Development Authority,
Namakkal. ...Appellants

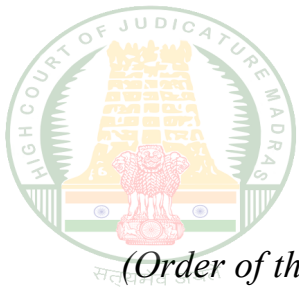
Vs

Indirani
W/o. Late. Sundararajan ..Respondent

Prayer : Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order of this Court dated 24.08.2022 passed in W.P.No. 5749 of 2019.

For Appellants: Mr.G.Nanmaran, Spl.G.P.

For Respondent: M/s. M.E. Raniselvam



JUDGMENT

(Order of the Court was made by the Hon'ble S.S.Sundar J.)

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This writ appeal is directed against the order of the learned Single Judge dated 24.08.2022 in W.P.No. 5749 of 2009, filed to direct the first respondent to pass orders on the proposal and recommendations of the 2nd respondent dated 11.12.2014.

Brief facts that are necessary for disposal of the writ appeal are as follows;

2. The respondent was temporarily appointed as sweeper by the 4th appellant on 23.07.1997 on daily wage basis at the rate of Rs.360/-. The respondent has been working continuously at the 4th appellant office / The District Rural Development authority. Since the respondent was working for several years on temporary basis, the 2nd appellant gave recommendation and sent proposal to the 1st appellant for regularisation of service of the respondent as Sweeper cum Office Assistant. Though the recommendation of the 2nd respondent reached the 1st respondent, the 1st respondent by communication dated 26.04.2018 directed the 2nd respondent not to make such a piecemeal recommendation for regularisation of temporary menial service employees, instead directed to send consolidated proposals, consisting of all the temporary employees who are all working for long years in different units. However, it is admitted that no combined proposal was given including the name of



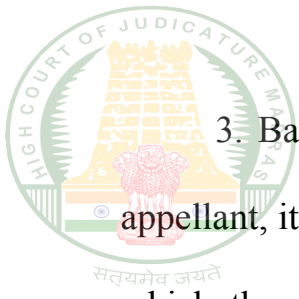
the respondent. It is in such circumstances, the respondent has filed the writ petition before this Court. During pendency of the writ petition, this Court directed the appellant to file a status report whether the combined proposal as sought for by the Government on 26.04.2018 has been sent by the Director of Rural Development .

Pursuant to the said directions, the 1st respondent has filed a status report dated 08.08.2022 as follows;

“4. It is respectfully submitted that the District Rural Development Agency (hereinafter called as DRDA) is not a Government Officer but an agency registered under Tamil Nadu Societies Registration Act. The District Collector is the Ex-officio Chairman of the DRDA and all the staffs including the Project Director who is the Chief Executive Authority of the DRDA are drafted on deputaion basis from various Government Departments, especially most of them from Rural Development and Panchayat Raj Department. It is further submitted that Salary and perks of all the staff of this agency are met out from a scheme fund called 'DRDA Administration Scheme', the scheme funded by both the Central and State Governments on a 60:40 basis.

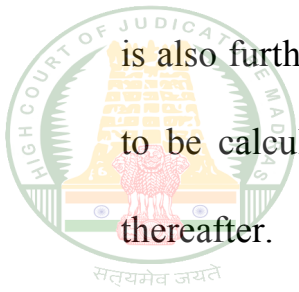
5. It is further submitted, while it is so, the Project Officer, DRDA, Namakkal, the 4th respondent herein appointed the petitioner as Sweeper in and by Proc. ROC No. 100/1997/Pa.1 dated 23.07.1997 on temporary basis in spite of the fact that the post of sweeper was not sanctioned in the DRDA, Namakkal.

6. It is submitted that in Government Lr.No.24766/E-7/2017-1 dated 26.10.2017 it has been requested to send the proposal to regularise 16 Full time employees only. It is submitted that the above information of the Government, the 1st respondent herein issued in Lr.No. 28488/E-7/2014-6 dated 26.04.2018 has been promptly conveyed and served to the petitioner in person on 28.11.2018 by the District Collector, Namakkal, the 3rd respondent herein in memo ROC.No. W3/11394/2017 dated 19.11.2018 through the Project Director, Namakkal, the 4th respondent herein Endt.Roc.No. 611/2018/A1 datd 28.11.2018. But no proposal has been received/pending with Government till date. Therefore, the contention of the petitioner that the proposals are pending before the first respondent for orders since 2014 is absolutely false.”



3. Based on the communication received by the 1st appellant from the appellant, it is was contended before the learned Single Judge that the department in which the respondent engaged is not a Government department or Government Wing and it is a Society registered under the Tamil Nadu Societies Registration Act as District Rural Development Agency. It was contended that the post of sweeper is not a sanctioned post and the regularisation of such posts is not permissible in the absence of any statute or executive orders authorising the department to engage the employees on permanent basis.

4. The learned Single Judge after taking note of the fact that the permanent office is functioning in every district as DRDA and the post of menial servants like sweeper is required to run the office and held that the on account of dire requirement of such kind of servants including sweeper in DRDA office in every district, whenever the proposal for regularisation is received from the Department like DRDA, the Government should consider the same. Accordingly, the writ petition was disposed of with the direction to the 2nd appellant to forward the proposal to the 1st appellant/Government about the plea raised by the respondent for regularisation of the service of the respondent with effect from the initial engagement of the respondent in the 1997, within a period of four weeks from the date of receipt of a copy of that order. On receipt of such proposal, the 1st appellant was also directed to pass necessary orders giving such permissions to the 2nd appellant to regularise the services of the respondent as sweeper w.e.f 1997. There



is also further direction with regard to the continuity of service and service ben
to be calculated and extended to the respondent within a period of eight weeks
thereafter.

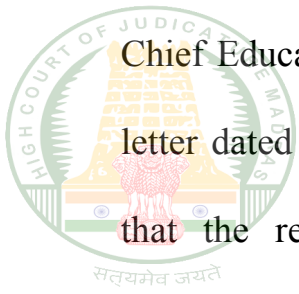


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5. In the appeal, the 2nd appellant has stated that the department on verification of educational qualification of the respondent found that the respondent has given bogus transfer certificate. Raising doubt regarding genuineness of the said transfer certificate, the appellant has stated that no indulgence can be shown to the respondent in the matter of employment or regularisation of the services of the respondent as sweeper w.e.f 1997. This Court is unable to countenance the arguments of the learned Additional Government Pleader for two reasons;

6. Firstly, as pointed by the learned Single Judge, the DRDA is functioning in every district as permanent establishment. Even though the post of sweeper is called temporary, the said post is permanently required for every district office as observed by the learned Single Judge.

7. Secondly, no educational qualification is prescribed for the said post. Even assuming for a moment, the educational qualification is prescribed, this Court is unable to appreciate the submissions of the learned Additional Government Pleader about the genuineness of transfer certificate produced by the respondent for the reason that the transfer certificate was issued by the GDR Higher Secondary School, Vaazhavandhinadu, Namakkal District. Further, in response to the request of the



Chief Educational Officer, Namakkal, the Headmistress of said school has given

letter dated 16.05.2023 stating that no records are available in the school to show

that the respondent had studied in the school. From the contents of said

communication, this Court is unable to accept the arguments of the learned

Additional Government Pleader that the respondent had produced a forged

certificate. The information furnished by the Headmistress of GDR Higher

Secondary School, Vaazhavandhinadu, Namakkal District that no records are

available and old records could not be retrieved cannot be taken that the transfer

certificate is forged. This Court finds no valid grounds raised by the appellant to set

aside the order passed by the learned Single Judge. The appeal is therefore liable to

be dismissed.

8. In the result, the appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(S.S.SUNDAR J.) (C.SARAVANAN J.)
27-02-2025

Index : Yes/No

Internet : Yes

Neutral Citation : Yes

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