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W.P.No.18800 of 20--

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.01.2025

CORAM

THE HON'BLE MR. JUSTICE **BATTU DEVANAND**

W.P.No.18800 of 2019

and

WMP.No.18141 of 2019

V.Madhan Mohan

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai 9.
2. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health & Family Welfare Department,
Secretariat, Chennai 9.
3. The Commissioner of Municipal Administration,
Municipal Administration and Water Supply Department,
Chepauk,
Chennai 5.
4. The Commissioner,
Tamil Nadu Food Safety & Drug Administration Department,
No.359, Anna Salai,
Chennai 6.



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5. The Commissioner,
Erode Municipality,
Erode,
Erode District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned order passed by the fourth respondent in his proceedings in R.No.4049/2018/S1/FSSA/41-2 dated 03.07.2018 and quash the same as illegal and consequently to direct the fourth respondent to absorb and regularize the service of the petitioner as Food Safety Officer in the fourth respondent Department within the period that may be stipulated by this Court.

For Petitioner : Mr.S.Nambi Arooran

For Respondents

for RR1 to 4 : Mr.P.Kumaresan, Additional Advocate General
Asst. by Mr.K.Tippu Sultan, Government Advocate
for R5 : M/s.M.Rajamathivanan

ORDER

The petitioner seeks issuance of a Writ of Certiorarified Mandamus to quash the proceedings of the fourth respondent in his proceedings in R.No.4049/2018/S1/FSSA/41-2 dated 03.07.2018 and quash the same as



illegal and consequently to direct the fourth respondent to absorb and regularize the service of the petitioner as Food Safety Officer in the fourth respondent Department.

2. The brief facts that are necessary for disposal of the Writ Petition are as follows:

i) The petitioner herein is presently working as Sanitary Inspector at Coonoor Municipality, Coonoor. When the Food Safety Department was constituted, the petitioner was appointed as Food Safety Officer on 20.09.2011 in the fourth respondent Department. Similarly, several other persons, who were also working as Health Inspectors Grade-I, were appointed as Food Safety Officers and all the appointments came to be notified vide G.O.Ms.No.151, dated 20.04.2012.

ii) It is the specific case of the petitioner that he became a full time employee of the Food Safety Department and he was paid salary by the said Department. However, the petitioner received a communication from the Commissioner of Food Safety Department to relieve the petitioner to his parent Department. The petitioner was directed to report before the Head of



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the Department after proper relief. In the said communication it is stated that based on the performance of the petitioner and due to administrative reasons, he was relived to his parent Department. Aggrieved by the said proceedings, the present Writ Petition has been filed.

3. The learned counsel for the petitioner would submit that the petitioner was appointed as Food Safety Officer vide proceedings of the Commissioner of Food Safety Department, dated 20.09.2011 and in the said communication, there was no reference to any lien so as to treat the petitioner as a person attached to the Food Safety Department.

4. The learned counsel further submitted that the petitioner was relieved from the service of the parent Department and only thereafter, he joined the service of the Food Safety Department. He further contends that the appointment of the petitioner in the Food Safety Department was not a case of deputation and as such, relieving the petitioner from the Food Safety Department and direct him to join the parent Department, is illegal.

5. In the counter affidavit filed by the Food Safety Department while admitting the averments insofar as the petitioner being originally working as



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Sanitary Inspector and subsequently posted as Food Safety Officer, it is stated that due to the urgent implementation of the Food Safety and Standards Act (FSSA Act), Health Inspectors in Public Health and Preventive Medicine Department, the Sanitary Officers/Sanitary Inspectors in Corporations, Municipalities under the control of the Municipal Administration, Chennai Corporation and Town Panchayat Department, who were working as Food Inspectors under the PFA Act have been appointed as Food Safety Officers. They were notified as Food Safety Officers so as to function under FSSA Act and the Rules made thereunder. They cannot claim as a matter of right to hold the post of Food Safety Officer in the Food Safety Department on permanent basis as they were not absorbed in the Food Safety Department. As such, there is no illegality in relieving the petitioner to the parent Department.

6. The learned Advocate General appearing for the respondents 1 to 4 would submit that the petitioner was appointed as Food Safety Officer vide proceedings dated 20.09.2011 only on deputation basis. Since the petitioner was not absorbed in the Food Safety Department, the impugned order was issued relieving him to his parent Department.



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7. The main issue that arise for consideration in this Writ Petition is that whether the petitioner was deputed as Food Safety Officer or appointed as Food Safety Officer in the Food Safety Department as permanent employee.

8. In fact, the issue involved in this Writ Petition is no longer *res integra*, as already this issue has been dealt by a Division bench of this Court in W.A.No.1406 of 2024, which arose against the order of a learned Single Judge in W.P.No.24703 of 2018. Admittedly, the facts and circumstances in both the cases are identical. The relevant paragraphs of the said judgment dated 20.08.2024 reads as follows:

“(9) From the proceedings of the 1st appellant dated 20.09.2011, the 1st respondent/writ petitioner was appointed as Food Safety Officer along with 384 others. From the order of appointment, there is no indication to infer deputation. As a matter of fact, the proceedings dated 22.12.2011, vide G.O.Ms.No.347, Health and Family Welfare Department, would show that the Government on the basis of the recommendation and proposals of the Director of Public Health and Preventive Medicine, created a new Department called “Tamil Nadu Food Safety and Drug Administration”



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[TNFS & DA] by integrating the existing Food Wing and Directorate of Public Health and Preventive Medicine and Drug Control Department. The word “integration” gives an indication that all the Food Safety Officers who were named in the order of appointment, got permanently absorbed in the 1st appellant Department. Therefore, the contention of the appellants cannot be countenanced.

(10) After the creation of the new Department called TNFS&DA Department to implement the Food Safety and Standards Act, 1954, the post of Food Inspector may not survive. From the communication dated 01.10.2012 of the 1st appellant to the 2nd respondent herein, in view of the creation of 584 posts of Food Safety Officers in the Food Safety Wing, this Court has seen that the Food Safety Department was integrated with the Health Department. Therefore, the contention of the learned Additional Advocate General that the writ petitioner was deputed to Food Safety Department and the 1st respondent/writ petitioner was also holding lien to conclude that the 1st respondent/writ petitioner was bound to join the parent Department, namely, 2nd respondent herein, is not acceptable.”



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9. On perusal of the facts in the present case and careful examination of the materials available on record, this Court is left with no other option except to follow the judgment of the Division Bench of this Court as stated supra. In view of the same, it is to be held that the contention of the learned Advocate General that the petitioner was deputed to Food Safety Department and the petitioner was bound to join the parent Department as per the impugned order, is not acceptable and legally unsustainable.

10. Accordingly, the order impugned in this Writ Petition is hereby quashed and the Writ Petition is allowed as prayed for.

No costs.

Consequently, connected miscellaneous petition is closed.

08.01.2025

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

pvs



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