



W.P.(MD).No.23518 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2025

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.23518 of 2016

and

W.M.P.(MD)Nos.16888 and 16889 of 2016

R.Lakshmipathi Raja

... Petitioner

Vs.

1.The Additional Director and Dean,
Tamilnadu Forestry Training College,
Vaigai Dam, Theni District.

2.The Chief Forest Officer,
Tamilnadu Forestry Training College,
Vaigai Dam, Theni District.

3.The Forest Ranger,
Estate Range,
Tamilnadu Forestry Training College,
Vaigai Dam, Theni District.

... Respondents

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 entire records in connection with the impugned order passed by the 1st respondent in Oo.Mu.No.2765/2015.Ka.dated 09.02.2016, to quash the same as illegal and consequently, to direct the respondents to reinstate the petitioner with continuity of service and consequently, to provide all the attendant benefits to the petitioner.



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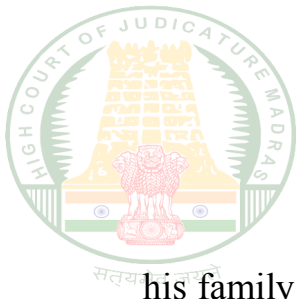
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For Petitioner : Mr.D.Anbarasu
For Respondents : M/s.D.Farjana Ghoushia
Special Government Pleader

ORDER

This writ petition is filed for issuance of a writ of *Certiorarified Mandamus*, to quash the impugned order passed by the 1st respondent, dated 09.02.2016, and consequently, to direct the respondents to reinstate the petitioner with continuity of service and consequently, to provide all the attendant benefits to the petitioner.

2. The brief facts as stated in the affidavit are that the petitioner was initially appointed as a Gardener in Tamil Nadu Forestry Training College, Vaigai Dam and he has put in 19 years of service. Along with the petitioner 10 more persons are working in the said College. The 3rd respondent has issued a service certificate wherein it is stated that the petitioner's service is good and his conduct and character are also good. When the petitioner completed 10 years of service, the petitioner is entitled to regularization. On 15.04.2012, without issuing any notice, the respondent College refused the permission for the petitioner and the other 10 persons to attend the work and the oral termination is illegal. Hence, the petitioner requested the respondents to grant continuity of service by explaining

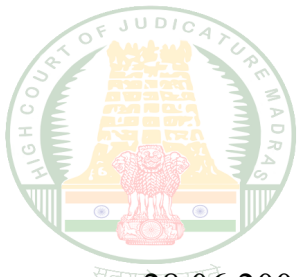


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his family situation. He also submitted a representation, dated 08.06.2012. Since the respondents failed to grant the job, the petitioner had filed W.P.(MD)No.12812 of 2014 and this Court directed the respondents to consider the representation by following G.O.Ms.No.202, dated 18.12.2013. Since the respondents failed to consider the same, again a detailed explanation was submitted by the petitioner on 31.08.2015. The respondents rejected the claim of the petitioner, vide impugned order, dated 09.02.2016. Hence, the present writ petition is filed challenging the impugned order.

3. The 1st respondent has filed a counter affidavit stating that the petitioner was engaged as and when required from the year January, 2005, on daily wage basis under Western Ghats Development Program, after getting approval from the District Collector. During the financial year, 2011-2012, engaging the labourers on daily wage basis was stopped, as no fund was received by the respondents under the above scheme. The petitioner was not engaged continuously and the petitioner was not appointed in any sanctioned post. Hence, the petitioner's request could not be considered, since the petitioner was engaged only for a period of seven years that too for around 15 to 25 days per month. Based on G.O.No.22, Personnel and Administrative Reforms Department, dated



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28.06.2006, a detailed report was submitted regarding the labourers engaged by the respective Department on daily wage basis. Thereafter, the department took a policy decision and Circular No.20 of 2010, dated 14.10.2010, wherein it was directed the respective authorities shall not engage any labourers on daily wage basis. It was also warned if engaged disciplinary action would be initiated against the erring official. In the meanwhile, G.O.Ms.No.202, Environment and Forest Department, dated 18.12.2013, was issued to regularize certain workers who had completed 10 to 25 years of service on daily wage basis, by creating supernumerary posts of Plot Watchers. But the petitioner cannot place himself with the beneficiaries of the said G.O., since they were appointed prior to the petitioner. Hence, the 1st respondent prayed to dismiss the writ petition.

4. It is seen that the petitioner was engaged by the respondents to serve in Tamil Nadu Forestry Training College as Gardener. The petitioner was appointed under the scheme namely “Western Ghats Development Program”. After 2012, the said program was dropped and the scheme was not funded by the government. In such circumstances, the petitioner could be engaged by the respondents. Along with the petitioner, ten other persons were also removed. Therefore, there is no discrimination. Therefore, this Court is of the considered



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opinion that the respondents cannot be forced to create any supernumerary post.

As rightly point out by the Learned Special Government Pleader, the petitioner was not appointed in any sanctioned post. In such circumstances, the petitioner cannot claim for regularization and hence the prayer of the petitioner cannot be considered. Hence, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

13.02.2025

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

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To

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S.SRIMATHY, J.

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