

M.Ravi Vs. the Commissioner.

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Court : Chennai

Decided On : Apr-16-2012

Judge : D.Hariparanthaman, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.P.(MD)No.12898 of 2011

Appellant : M.Ravi

Respondent : The Commissioner.

Advocate for Pet/Ap. : Mr.R.Lakshmanan, Adv.

Judgement :

PRAYER

Writ petition is filed under Article 226 of the [Constitution of India](#) praying to issue a Writ of Mandamus, directing the respondents to regularise the service of the petitioner from 18.09.2000 and confer all the monetary benefits and all other consequential benefits including the old pension scheme with G.P.F within a stipulated time.

ORDER

1. The petitioner was appointed as Night Watchman on 15.06.1990 on daily wage basis at the rate of Rs19/- per day from contingent fund in the Panchayat Union Middle School, Kulithalai.

2. He continued to work for more than 10 years. The Tamil Nadu Government issued G.O.Ms.No.878 Rural Development Department dated 15.05.1981 and directed the District collectors concerned to furnish the list of employees who are appointed before 01.04.1981 and who have completed 10 years of service to consider for regular service. Accordingly, the names of 218 persons were sent to the Government and the petitioner was one among them. Based on the said list, the Government issued G.O.Ms.No.267, Rural Development (E-7) Department, dated 22.12.1999 empowering the District Collectors concerned to regularise the 218 persons. But the District Collector failed to regularise the service of the petitioner and instead sought for orders from Director of Rural development, Chennai.

3. In the said circumstances, the petitioner filed W.P.10747 of 2007 seeking for direction to respondents to regularise his service from 15.09.2000 and confer all the consequential benefits.

4. This Court, disposed the writ petition on 21.01.2008 and passed the following order. Paragraph No.5 of the said order is extracted hereunder: 5. In my considered opinion, the said procedure adopted by the District Collector is not in accordance with the Government Order. Hence, the following order is passed:

The District Collector/second respondent is hereby directed to pass appropriate orders, regularising the services of the petitioner, if he satisfies the requirements under the above said G.Os, within a period of two months from the date of receipt of a copy of this order.

5. Thereafter, the petitioner was regularised in service on 09.07.2008. The petitioner has come forward with this present writ petition, seeking to regularise the service from 18.09.2000.

6. The second respondent has filed counter affidavit stating that the petitioner was regularised from the date of issuance of the order and there is nothing wrong in regularising the service from 09.07.2008.

7. I have considered the submissions made on both sides.

8. Paragraph Nos.2 and 4 of the order dated 21.01.2008 in W.P.No.10747 of 2007 are extracted hereunder:

2. The petitioner was appointed as Night Watchman on 15.06.1990 on daily rated basis at Rs.19/- per day from contingent fund. He continued to work in such capacity for more than ten years. The Government of Tamil Nadu issued G.O.Ms.No.878 Rural Development Department dated 15.05.1981 and directed the District Collectors concerned to furnish the list of such employees who were appointed after 01.04.1981 and those who had completed ten years of service for being considered for regularisation. Accordingly, the names of 218 persons were sponsored throughout the State to the Government. Based on the said list, the Government subsequently issued G.O.Ms.No.267 Rural Development (E-7) Department dated 22.12.1999 empowering the District Collectors concerned to regularize the services of those 218 persons alone. The Petitioner is one such person included in the list of 218 persons covered under the above said G.O. Subsequent to the said G.O., the District Collector, viz., the second respondent herein has considered the case of the petitioner and instead of regularizing his services, recommended to the first respondent to regularize the services of the petitioner. Therefore, the petitioner has come forward with this writ petition, seeking for appropriate direction to the second respondent / District Collector to pass appropriate orders in tune with G.O.Ms.No.267 Rural Development (E-7) Department dated 22.12.1999 as power has been vested with him and the said power cannot be delegated to some other officer.

4. A perusal of G.O.Ms.No. 267 Rural Development (E-7) Department dated 22.12.1999 would go to show that the services of those 218 persons covered under G.O.Ms.No. 878 Rural Development Department dated 15.05.1981 are to be regularized by the District Collector as and when there arises vacancy. The G.O., referred to above further says that the power of the Collector cannot be

delegated to any other authority. But, in this case, obviously the District Collector instead of regularizing the services of the petitioner has recommended to the first respondent for regularizing the services of the petitioner.

9. The aforesaid paragraphs make it clear that the petitioner is entitled to be regularised on completion of 10 years of service. It is not in dispute that the name of the petitioner is one among 218 persons, who are to be regularised as per G.O.Ms.No.267, Rural Development (E-7) Department, dated 22.12.1999. This Court directed the District Collector to regularise the service of the petitioner in the light of the observation made in the judgment. But, he was regularised only from 09.07.2008. When others were regularised on completion of 10 years of service, it is not proper to regularise the service of the petitioner only in 2008 i.e., others who are covered under G.O.Ms.No.267, Rural Development (E-7) Department, dated 22.12.1999, were regularised on completion of 10 years of service, it is not fair for the respondents to regularise the service of the petitioner only from 2008.

10. In the circumstances, I am inclined to direct the 6th respondent to regularise the service of the petitioner on completion of 10 years of service as per G.O.Ms.No.267, Rural Development (E-7) Department, dated 22.12.1999, within a period of eight weeks from the date of receipt of a copy of this order and the petitioner also be given the monetary benefits within four weeks therefrom.

11. With the above direction, this writ petition is disposed of. No costs.

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