

W.P.(MD)No.12602 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 13.06.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.12602 of 2024
and
W.M.P.(MD).No.11224 of 2024

R.Sasikumar

... Petitioner

Vs.

1. The State of Tamil Nadu,
represented by its Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai.
2. The Commissioner of Rural Development
and Panchayat Raj,
Commissioner of Rural Development and Panchayat Raj,
Panagal Building,
Saidapet, Chennai.
3. The District Collector,
Karur District,
Karur.
4. The Commissioner,
O/o.Panchayat Union,
Krishnarayapuram,
Karur District.
5. The Block Development Officer,
Panchayat Union,
Krishnarayapuram,
Karur District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order passed by the fourth respondent vide his proceedings in Na.Ka.A1/1725, dated 31.05.2024 and quash the same as illegal.

For Petitioner : Mr.H.Mohammed Imran,
for M/s. Ajmal Associates

For R-1 to R-3 : Mr.M.Lingadurai,
Special Government Pleader

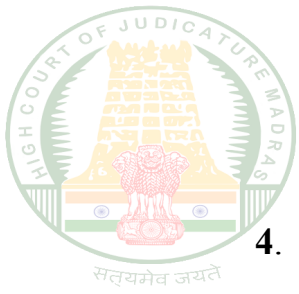
For R-4 & R-5 : Mr.G.Suriya Ananth,
Additional Government Pleader

ORDER

By consent of both the parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.H.Mohamed Imran, learned counsel appearing for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader appearing for Respondent Nos.1 to 3 and Mr.G.Suriya Ananth, learned Additional Government Pleader appearing for respondent Nos.4 and 5.

3. This Writ Petition has been filed to challenge the impugned order passed by the fourth respondent vide his proceedings in Na.Ka.A1/1725, dated 31.05.2024.



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4. The petitioner, who was appointed as Jeep Driver through the Employment Exchange in the fourth respondent Panchayat Union, has been given with the order of cancelling his appointment after 14 years of service on 31.05.2024. In the impugned order, dated 31.05.2024, it has been stated that the petitioner has been wrongly appointed in the place actually reserved for the Scheduled Castes (Arunthathiyars on Preferential Basis) and the same was against the Government Order issued with regard to the communal rotation. But without considering his explanation, the respondents have cancelled his appointment on 31.05.2024. It is also stated in the impugned order that the petitioner is appointed on temporary basis. The petitioner was given with the show cause notice on 27.05.2024 and the petitioner has also given his explanation stating that he did not suppress any material facts and he is in no way responsible for any of the mistakes that had happened in allotting his appointment under some other category than the category to which he actually belonged in the matter of reservation and appointment. Aggrieved over the same, the petitioner has filed this Writ Petition.

5. Mr.M.Lingadurai, learned Special Government Pleader appearing for respondent Nos.1 to 3 submitted that the appointment of the petitioner was only by a temporary appointment and subsequent to the Audit objection, the mistakes



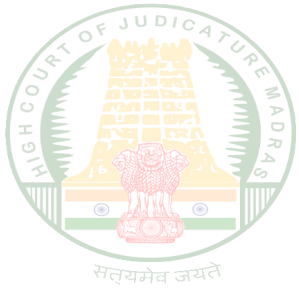
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came to light and the officer, who was in-charge of the appointment has been

subjected to disciplinary proceedings and as a punishment he was reversed to a lower cadre. He further submitted that the appointment of the petitioner has been made in violation of the Rules regarding communal rotation and hence, the cancellation order has been rightly issued.

6. Though in the appointment order dated 11.05.2010 it is stated that the petitioner has been appointed temporarily, he has been kept under CPS (Contributory Pension Scheme). The said fact has also been stated in the appointment order. That would also reveal that the petitioner has been recruited against the sanctioned and regular vacancy in a regular time scale of pay. Normally, in the order of such appointment, it would be stated that services of the individual is temporary, meaning to say that the appointment would be considered as permanent after successfully completing his probation.

7. It is not denied by the respondents that the vacancy against which the petitioner was appointed was not a regular one. If his vacancy is not a regular vacancy, there is no necessity to follow communal reservation in such an appointment. So, the respondents cannot at his own sweet will after fourteen years of service state that the appointment of the petitioner is only temporary and hence it can be cancelled, whenever, the Government pleases to do so.



WEB COP 8. So far this petitioner is concerned, there is no allegation against him that he has suppressed any material facts in order to get an appointment in the fourth respondent Union. For the error on the part of the Appointing Authority in not following the guidelines of communal rotation, the petitioner cannot be penalised or made as a scapegoat. The Government, being the model employer, cannot adopt such atrocious practices of cancelling the appointment of a person after fourteen long years for the fault of its own officer involved in the recruitment.

9. Infact, the Government has got a vicarious liability for compensating the loss caused to anyone in view of the mistake committed by its own employees. Even the matter is viewed in that perspective, the petitioner who would loose his services due to the mistake of his superior would be entitled to stake a claim for his monetary benefits attached to his loss of service as compensation.

10. Instead of bearing such a liability, it would be ideal on the part of the respondents to continue to engage the services of the petitioner by allowing him to continue in service. Even the petitioner has not stated that he has opted to



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seek compensation instead of getting reinstatement. It is reiterated that the

petitioner's services have been terminated for none of his fault.

11. Under such circumstances, the Writ Petition is **allowed** and the impugned order passed by the fourth respondent in Na.Ka.A1/1725, dated 31.05.2024 is set aside and the respondents are directed to reinstate the petitioner into service forthwith and the period for which the petitioner was kept out of service until his reinstatement shall be treated as continuity of service with all other attendant and monetary benefits including backwages. If the respondents feel that the post given to the petitioner will not be available for the rightful category under which his post ought to have been filled up, an order in the form of either ratification or an order for creating a super-numerical post can be done by considering this as a special case. Consequently, the connected miscellaneous petition is closed. No costs.

13.06.2024

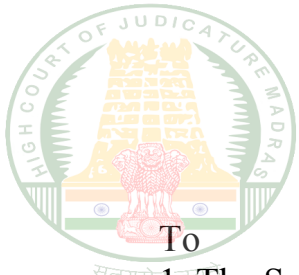
NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

Note : Issue Order copy by 14.06.2024



To

1. The Secretary to Government,,
the State of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai.
2. The Commissioner of Rural Development
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R.N.MANJULA, J.

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