

(2010) 04 MAD CK 0075

In the Madras High Court

Case No : Writ Petition No. 12308 of 2005 and W.P.M.P. No. 13454 of 2005

C. Palanisamy

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 30-04-2010

Acts Referred:

Citation : (2010) 04 MAD CK 0075

Hon'ble Judges : T. Raja, J

Bench : Single Bench

Advocate : N. Sampath, for the Appellant; D. Geetha, Additional Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

T. Raja, J.—The present writ petition is filed by C. Palanisamy seeking a Writ of Mandamus, to direct the respondents 1 & 2 to regularize

the service of the petitioner and to bring him under time scale of pay and also to pay all other service benefits including pensionary benefits.

2. The petitioner was appointed as a Contingency staff by the Raja Chatram administration from 01.07.1976. Though the petitioner was appointed

as Garden Watchman on daily wages basis, subsequently, he was working as Masalji at college mal ladies Hostel at Thiruvaiyar. It is further stated

that the petitioner was working under the 3rd respondent for the past 30 years without any break in service. The Raja Chatram is administered by

the District Collector of Thanjavur.

3. While so, the Government of Tamil Nadu issued G.O.Ms. No. 62, Employment Services Department, dated 20.03.1987 to bring all the

contingency staff under regular establishment on time scale of pay. Though the

Government has passed the above said Government Order, the 3rd respondent/the District Collector, Thanjavur District herein, had not taken any action to regularize the services of the employees working in Raja Chatram. Therefore, the petitioner gave a representation on 23.08.1999 followed by another representation dated 15.11.1999 to the 3rd respondent, namely, the District Collector, Thanjavur seeking a prayer to regularize the service of the petitioner as per G.O.Ms. No. 62, Employment Services Department, dated 20.03.1987. The prayer made in the representation was based on the fact that on the contingency staff who have worked in various departments have got all the benefits including pensionary benefits, whereas, the contingency staff working under the 3rd respondent were not given the time scale of pay and pensionary benefits. Therefore, it was represented to the District Collector that the approach of the Raja Chatram administration was arbitrary, discriminatory and in clear violation of principles of natural justice.

4. It was further mentioned by the learned Counsel appearing that the 3rd respondent/the District Collector, Thanjavur District who had taken over the Raja Chatram has given the benefits to some of the persons who were working under him in the Chatram Administration. But, the 3rd respondent/the District Collector, Thanjavur District refused to grant the time scale of pay and all other pensionary benefits only to the petitioner. It was further mentioned that though the Chatram Administration is having some hundreds of acres of land, business shops and lodging house and hotels under the Chatram Administration and from that, the Chatram Administration is earning lakhs of rupees as income, the Chatram Administration is not giving any increment towards the pay scale and deliberately denying the same to the Chatram employees.

5. The plight of the petitioner for the last 30 years has not been considered for regularization and for regular time scale of pay. Only by letter dated 11.07.2001, the 3rd respondent informed the petitioner that the employees of the Thanjavur Chatram Administration will get the benefits after getting the Government Order from the 1st respondent since a report has already been sent to the 2nd respondent in this regard. For the above said reason, the learned Counsel appearing for the petitioner prayed that a direction in the nature of a Writ of Mandamus, to direct the respondents

1 & 2 to regularize the service of the petitioner and bring him under time scale of pay and also to pay all other service benefits including the pensionary benefits.

6. In reply, the learned Additional Government Pleader appearing for respondents 1 to 3 submits that the Raja Chatram was established in the year

1817. Later on, the Administration was taken over by the Board of Revenue and subsequently, the Administration was transferred to local

Board's control and again, it was transferred to the District Board. After the abolition of the District Board in 1961, it came under the control of

the District Collector as Administrator and still it is functioning under the control of the District Collector, Thanjavur. Therefore, the District

Collector, 3rd respondent herein, has recommended the case of the petitioner for regularization of the Government stating that the benefit of

regularization all the next appointments by the Government will be taken by the Raja Chatram. But, the recommendations made by the District

Collector, the 3rd respondent in his proceedings Na.Ka. No. 2/12132/2003, dated 22.09.2003 was also considered by the Government in its

proceedings Na.Ka. No. 2/12132/2003, dated 22.09.2003 and finally unable to agree with the recommendation of the District Collector, the

Government had rejected the recommendation of the District Collector on the only ground that the petitioner and 8 others were not appointed

through the employment exchange.

7. Therefore, learned Additional Government Pleader appearing for respondents 1 to 3 submits that the case of the petitioner was properly taken

into account and though the petitioner case was recommended by the 3rd respondent herein, the Government has rejected the case of the

petitioner. Therefore, the impugned order does not call for any interference by this Court.

8. Heard the learned Counsel on both sides.

9. The petitioner was appointed as Garden Watchman in Raja Chatram on 01.07.1976. Admittedly, from the date of his appointment and till the

date of his retirement on 29.02.2008 without any break in service, he continued to work as Watchman and subsequently, as Masalji. When some

of the employees working in Raja Chatram gave a representation to the District Collector, the 3rd respondent herein, the 3rd respondent has given

the benefits to some of the persons who were working under him in the Raja Chatram Administration.

10. While so, the 3rd respondent cannot refuse to grant the time scale of pay and all other pensionary benefits, to the petitioner alone, particularly,

when the Chatram Administration is having some hundreds of acres of land, business shops and lodging house and hotels run under the Chatram

Administration, by employing the petitioner and others, the respondents cannot refuse to regularize the service of the petitioner when the petitioner

has put in more than 30 years of service in the Chatram Administration.

11. As rightly contended by the learned Counsel appearing for the petitioner, in G.O.Ms. No. 62, Employment Services Department, dated

20.03.1987, at paragraph 3, it is clearly stated that all the appointments made without consulting Employment Exchanges may be ratified as a

special case from the date of issue of the order provided the individual possesses all other qualifications. That being the case, it has now been

decided to regularize the services of the contingent staff who have been appointed without consulting Employment Exchange also from the date of

issue of order and not from the date on which the individual completes five years of service. In the present case, the petitioner had also worked for

about 32 years continuously from 01.07.1976 till 29.02.2008 namely, the date of retirement. The petitioner cannot be from other similarly placed

persons distinguished by denying the benefit of regularization particularly when the Raja Chatram Administration has already been taken over by

the District Administration under the direct Administration of the District Collector. In this view of the matter, the recommendations made by the

District Collector requesting the Government to regularize the service of the petitioner could have been considered. However, since the petitioner

being a single individual who has put in 32 years of unblemished service, in all fairness, the respondents 1 & 2 could have accepted the

recommendation of the District Collector to regularize the service of the petitioner. As they failed to do so, this Court is inclined to direct the 1st

respondent to regularize the service of the petitioner from the date of issue of the Government Order in the year 1987 and to bring him under time

scale of pay and also to pay all other service benefits including the pensionary benefits. The said exercise shall be carried out within a period of four

months from the date of receipt of a copy of the order.

With the above observation, the Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.