
(2006) 11 MAD CK 0028

In the Madras High Court

Case No : Writ Petition No. 2882 of 2005

P. Sivamanikandan

APPELLANT

Vs

The State of Tamil Nadu

RESPONDENT

Date of Decision : 02-11-2006

Acts Referred:

Citation : (2006) 11 MAD CK 0028

Hon'ble Judges : M.E.N. Patrudu, J

Bench : Single Bench

Advocate : S. Jayaraman for G. Elanchezhian, for the Appellant; C.K. Vishnu Priya, Government Advocate for R1 to R3 and R. Chandrasekaran, for R4, for the Respondent

Final Decision : Allowed

Judgement

M.E.N. Patrudu, J.—The case of the petitioner is that he was first appointed as Technical Assistant (NMR) on daily wages basis in the office of the 4th respondent on 01.04.1991 and continuously working on daily wages basis, however, with artificial break. It is stated that the Government of State has taken a policy decision that if the daily wages employees working in Department or in the Panchayat Union for more than five years, they are entitled for regularisation in their respective posts. Since the petitioner is working from 01.04.1991, he made a request, on completion of five years, to regularise the services. The same is not considered by the 4th respondent. He made certain representations to the respective authorities, but no positive orders have been issued. Therefore, he approached the Tamil Nadu State Administrative Tribunal and filed an Original Application and the same is pending. It is stated that an interim order was issued by the Tamil Nadu State Administrative Tribunal not to terminate the applicant from the service pending disposal of the Original Application. Therefore, the petitioner is working as Technical Assistant (NMR) on daily wages basis in view of the interim order dated 25.02.1998.

2. It is further stated that the wages are paid from 1996 to September 1997 and

thereafter, wages are not paid to him though his services are extracted by the 4th respondent, thereby the petitioner is forced to file a writ petition in W.P. No. 334 of 2003 before this Court for a direction to the respondents to consider his representation dated 03.06.2002 with regard to the payment of wages for the period from October 1997 to till date.

3. This Court, by order dated 06.01.2003, issued a direction to the District Collector and also the Panchayat Union, who are the 3rd and 4th respondents herein, to consider the representation of the petitioner dated 03.06.2002 and pass necessary orders within a period of 12 weeks from the date of receipt of a copy of this order in that writ petition. Now, the grievance of the petitioner is that respondents 3 and 4 did not pay any wages and they have issued the impugned order dated 14.01.2004 terminating the services of the petitioner.

4. The forceful contention of Mr. S. Jayaraman, learned Senior Counsel appearing for the petitioner is that the impugned order disclosed that the Commissioner and the Extension Officer of the 4th respondent made an observation that as the petitioner has filed a petition against the Collector and Commissioner, Panchayat Union, it is not feasible to allow such persons to work in the office of the Panchayat Union. So saying, the services of the petitioner are terminated and the petitioner is challenging the same.

5. None of the respondents have filed counter. The learned Government Advocate Mrs. Vishnu Priya is appearing for respondents 1 to 3 and Mr. R. Chandrasekaran is appearing for the 4th respondent.

6. Heard both sides and perused the impugned order.

7. It is a fact that the Commissioner and Extension Officer of the 4th respondent had signed the impugned order on 19.01.2004; but it is dated 14.01.2004. The impugned order disclosed the non-application of mind of the officers concerned. Apart from that, this Court is unhappy to note that the order was issued terminating the services of the petitioner on the ground that the petitioner has approached this Court for redressal. The petitioner was forced to approach the Tamil Nadu State Administrative Tribunal as well as this Court for not regularising his services though there are Government instructions and for non-payment of wages. An order was issued by the Collector on 22.06.2004, which says that the appointment of the individual is barred under the provisions of the Government Order. Hence, wages cannot be paid. The details of the Government Order is not referred. When the petitioner was appointed on (MMR) daily wages basis in the year 1991 and when he was permitted to continue services till 1998 and when he approached the Tamil Nadu State Administrative Tribunal for regularising the services and when an interim order was passed by the Tamil Nadu State Administrative Tribunal not to terminate the services and when a direction was given by this Court to consider his representation to pay the wages, ignoring all the legal orders, the authorities have terminated the services of the petitioner on one hand and on the other, failed to pay the salary or wages though his services

are extracted. Therefore, the Court has clearly noticed the gross misuse and abuse of power by the concerned authorities.

8. Hence, the copy of the order is marked to the Chief Secretary of the State and also to the Secretary, Rural Development, to call for the files and make a detailed enquiry as to under what instructions, the concerned authorities have flouted the orders of the Tamil Nadu State Administrative Tribunal as well as this Court. Since there is an interim direction by the Administrative Tribunal and the Original Application is pending and as it is stated that the interim directions are still in force, the petitioner's services cannot be terminated. Apart from that, the reasons assigned for terminating the services are totally misconceived and therefore, the petitioner is directed to be re-instated forthwith as a Technical Assistant. Since there is also a direction to consider his representation and pay the wages and as it is admitted that the services of the petitioner are extracted up to the date of termination, the petitioner is entitled for wages. Therefore, respondents 3 and 4 are directed to pay the wages forthwith, preferably within 30 days from the date of receipt of a copy of this order, failing which, suo motu contempt will be initiated against them.

9. In the result, the writ petition is allowed with costs of Rs. 10,000/- to be payable by Mr. V. Samraj, the then Commissioner of the 4th respondent and also by the then Extension Officer (whose name is not mentioned in the petition). The Chief Secretary of the State is directed to issue necessary instructions to the concerned authorities to recover the costs from the salaries of the two officials and pay the same to the petitioner.