

(2005) 06 MAD CK 0100

In the Madras High Court

Case No : Writ Petition No. 16318 of 2005 and Writ Petition No's. 16319 to 16321, 16322 to 16325, 16616, 16619, 16627 , 16629, 16631, 16632, 16642, 16660, 16665, 16666, 16668, 16500, 16659, 16547, 16556, 16546, 16549 and 16607 of 2005 and WPMP. No's. 17749 to 177

V. Thankappan

APPELLANT

Vs

President and Others

RESPONDENT

Date of Decision : 14-06-2005

Acts Referred:

Citation : (2005) 06 MAD CK 0100

Hon'ble Judges : P. Sathasivam, J;AR. Ramalingam, J

Bench : Division Bench

Advocate : P.M. Subramanian, for S. Arunachalam, for the Appellant; S. Gomathinayagam, Spl. Govt. Pleader for R4 and 5 and R. Vijayakumar, Government Advocate for R.1 to 3, for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—Since the relief sought for is one and the same and identical in all these cases, these writ petitions are disposed by the following common order.

2. These writ petitions have been filed against the common order passed by the Tamil Nadu Administrative Tribunal, Chennai, dated 01.06.2004, in and by which the request of the petitioners for regularisation of their services in the respective Panchayats have been negatived.

3. According to the petitioners, they are part-time employees in various panchayats in Kanyakumari District, working as sanitary workers, over-head tank operators or water supply assistants. They approached the Tamil Nadu Administrative Tribunal with a prayer to bring them under regular time scale of pay. It is their case before the Tribunal that though they have been appointed on part-time basis, they have been working for number of years and some of them have been for ten years and above.

4. The District Collector, Kanyakumari, third respondent before the Tribunal, filed a counter affidavit contending that all the applicants are only part-time employees appointed by the Presidents of various Panchayats in Kanyakumari District for doing sanitary work or mainly for operating the over-head tanks and valves and some of them have been appointed as water supply attenders and they are only engaged for about one or two hours at the maximum and they are not full-time employees. It is further stated that they are not full-time workers/employees in the Panchayats, except Bill Collectors, who were appointed as full-time workers by the special orders passed by the Government. The District Collector is functioning as an Inspector of Panchayats, discharging powers conferred on him under the provisions of the Panchayat Act and he is the appointing authority and not the President. It is also stated that no fund has been sanctioned to the village Panchayat for over-head tank operators or water supply assistants and there is no necessity for appointing them on regular basis or on full-time basis. It is also stated that the Government have passed orders in the year 1997-98 and directed the Panchayats to pay the part-time employees a consolidated salary of Rs.150/- to Rs.200/- per month and the same was increased to Rs.250/- to Rs.300/- and now at the rate of Rs.400/- per month. The Administrative Tribunal based on the above pleadings, considered the main question, namely, whether their prayer for regularisation and bringing them under regular time scale of pay can be ordered.

5. Taking note of the specific information furnished by the District Collector, namely, that there is no sanctioned post and fund, and the nature of work being performed is only part-time, accepting the stand taken, the Tribunal by the impugned order dismissed all the applications. Questioning the same, present writ petitions have been filed.

6. Heard the learned counsel for the petitioners.

7. Even at the outset, learned counsel appearing for the petitioners fairly states that they are not pressing the main question relating to regularisation of their services in the respective Panchayats. However, the learned counsel for the petitioners placing reliance on two earlier Division Bench orders of this Court dated 01.10.2004 made in W.P.Nos.28364 to 28369 of 2004 and the subsequent order dated 29.11.2004 made in W.P.No.34586 of 2004, would request that direction may be issued to the respondents for payment of wages on the basis of daily rate as fixed from time to time, so long as they continue in the present capacity.

8. In view of the fact that the petitioners have given up their main relief, namely, regularisation of their services, we are of the view that no further adjudication is required in these petitions. However, in view of the limited request made by the learned counsel, we intend to give further reasons. We have already referred to the categorical information furnished by the District Collector, Kanyakumari District, who is the Inspector of Panchayat and the competent authority under the Panchayats Act. No reply has been filed by the petitioners before the Tribunal

controverting those factual details. In such circumstances, we are of the view that unless there are materials to show that their nature of work is full-time, there cannot be any such positive direction as claimed by the counsel for the petitioners.

9. We have also perused the two earlier Division Bench orders passed by this Court. In those orders, the learned Judges have specifically mentioned that those employees are entitled to full-time rate, only if they work full time/whole day and not part-time as claimed by the District Collector. In such a circumstance, we are not inclined to make such an observation as claimed. However, the petitioners are free to approach the District Collector concerned or higher authority/ Government to vindicate their grievance if the same is permissible under law.

With the above observation, these writ petitions are dismissed. No costs. Connected W.P.M.Ps. are also dismissed.