

**(2011) 11 MAD CK 0065**

**Madras High Court**

**Case No:** Writ Petition No. 14365 of 2007 (O.A. No. 365 of 2003)

K. Ramasamy

APPELLANT

Vs

The Government of Tamil Nadu

RESPONDENT

**Date of Decision:** Nov. 9, 2011

**Hon'ble Judges:** D. Hari Paranthaman, J

**Bench:** Single Bench

**Advocate:** P. Mohanraj, for the Appellant; V. Subbiah, Special Government Pleader, for the Respondent

### **Judgement**

@JUDGMENTTAG-ORDER

The Honourable Mr. Justice D. Hari Paranthaman

1. On abolition of the Tribunal, the Original Application in O.A.No.365 of 2003 filed before the Tamil Nadu Administrative Tribunal, Chennai, stood transferred to this Court and re-numbered as W.P.No.14365 of 2007.

2. The petitioner was appointed as Night Watchman at Ayurvedic Dispensary, Somandurai Chittur in Anaimalai Panchayat Union, Coimbatore District, by an order dated 14.11.1986. He was recruited through Employment Exchange. The appointment was made after following the recruitment procedure. According to the petitioner, the appointment was made in a permanent post against the vacancy caused by the resignation of one Palanisamy. It is also the case of the petitioner that in the Ayurvedic Dispensary, the Government sanctioned permanent post of Night Watchman. In all the Ayurvedic Dispensary, Night Watchman posts are available.

3. While his claim is for regularisation from the date of his appointment, the Government issued G.O.Ms.No. 161, Rural Development (E-7) Department, dated 26.06.2000, regularising his service from the date of completion of ten years.

4. Consequently, the second respondent passed an order regularising the service of the petitioner with effect from the date of issuance of G.O.Ms.No.161, Rural

Development, dated 26.06.2000 instead of regularising the service from the date of completion of 10 years of service.

5. Aggrieved by the said order, the petitioner has filed the Original Application before the Tamil Nadu Administrative Tribunal, Chennai, praying to quash the order of the second respondent dated 26.12.2002 and sought for a direction to regularise the service from the date of his initial appointment viz., 21.11.1986 with all consequential benefits.

6. The respondents have filed a reply affidavit refuting the allegations made by the petitioner.

7. According to the respondents, the petitioner was appointed on contingent basis contrary to G.O.Ms.Mo.878, Rural Development Department, dated 15.05.1981. As per G.O.Ms.Mo.878, Rural Development Department, dated 15.05.1981, no person should be appointed in contingent establishment after 01.04.1981. In these circumstances, proposals were sent to the Director of Rural Development for regularisation of the service of the petitioner, who was appointed after 01.04.1981. The Government issued G.O.Ms.No.161, Rural Development (E-7) Department, dated 26.06.2000 to regularise the service of 171 contingent employees including the petitioner from the date of completion of 10 years of service. Since the Government issued a letter dated 19.03.2002 in terms of G.O.Ms.No.161, Rural Development (E-7) Department, dated 26.06.2000, directing the subordinate authorities to regularise the services with effect from the date of issuance of G.O.Ms.No.161, there is no infirmity in the order of the second respondent in regularising the service of the petitioner from 26.06.2000.

8. Heard both sides. I have considered the rival submissions made on either side and perused the materials available on record.

9. The Learned Counsel for the petitioner submits that the petitioner was appointed in a permanent post. Since similarly situated persons in Coimbatore District were granted regularisation from the date of appointment by the orders of this Court in W.P.Nos.49612 of 2006 and 14366 of 2007 and W.P.Nos.49613 of 2006 and 14364 of 2007, dated 09.11.2011, the petitioner should also be given a similar treatment.

10. As rightly contended by the Learned Counsel for the petitioner, since two persons, namely M. Dhandapani and M. Sakkrai, who were the Night Watchmen, were granted relief of regularisation from the date of their initial appointment, the petitioner, who is employed in Anaimalai Panchayat Union, is also entitled to the same relief. Both Anaimalai and Udumalpet Panchayat Unions are within the Coimbatore District. Those two persons were given regularisation with effect from 26.06.2000 i.e., the date of issuance of G.O.Ms.Mo.161 and the same was quashed and they were granted regularisation from the date of their initial appointment. In this case also, while the petitioner was appointed by an order dated 14.11.1986, the third respondent referred to G.O.Ms.Mo.704, Public Works Department, dated

15.11.1964 and also the other references. The petitioner was also appointed through Employment Exchange after following the recruitment procedures. In these circumstances, the petitioner is also entitled to the same relief as granted to two others. For the reasons stated above, the impugned order is quashed and the respondents are directed to regularise the service of the petitioner from the date of his initial appointment, with all benefits., within a period of six weeks from the date of receipt of a copy of this order.

The Writ Petition is disposed of with the above observation and direction. No costs.