



W.A.No.2834 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

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M. Ravi

... Appellant

Vs.

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai 600 009.
2. The Director of Town Panchayat, Kuralagam,
Chennai-108,
Now, at the Director of Town Panchayat,
M.R.C.Nagar, Chennai 600 028.
3. The Executive Officer, Walajabath Town Panchayat,
Thiruvannamalai District,
Now, at the Executive Officer,
Walajabath Town Panchayat,
Kancheepuram District.

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act to set aside the order passed in W.P.No.8207/2013, dated 24.09.2018 and allow



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the writ appeal.

WEB COPY For Appellant : Mr. A.Baskaran

For Respondents : Mr. V.Manoharan Addl.Govt.Pleader
for respondents 1 and 2

Mr.R.Neelakandan,
Additional. Advocate General
Assisted by Mr.C.Selvaraj
for third respondent

JUDGMENT

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This intra court appeal has been filed by the writ petitioner as against the order passed by the learned Single Judge in W.P.No.8207/2013, dated 24.09.2018.

2. The facts leading to the filing of the writ appeal is as follows.

i) The appellant was initially appointed as NMR in January 1998 in Walajabath Town Panchayat and subsequently, he was appointed as Tractor Driver and continued as such till date.

ii) As per G.O.Ms.No.23, Municipal Administration and Water Supply Department, dated 03.03.1998, the Government has delegated powers to the



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Director of Town Panchayat to create the post of Tractor Driver in the time scale of Rs.975-25-1150-30-1160.

iii) Subsequently, the second respondent had created one post of Tractor Driver to the Walajabath Town Panchayat, vide order dated 15.03.2000 and also directed to appoint a tractor driver in the sanctioned post, as per G.O.Ms.No.225, Municipal Administration and Water Supply Department dated 12.09.1997 and G.O.Ms.No.23, Municipal Administration and Water Supply Department dated 03.03.1998.

iv) Without adhering to the above guidelines issued by the second respondent, dated 15.03.2020, the third respondent appointed the appellant as Tractor Driver in the sanctioned post, vide order dated 01.09.2001 on consolidated pay for a period of three years, i.e. I year -Rs.900/-; II year-Rs.990/-; III year Rs.1089/-, as per G.O.Ms.No.84, dated 21.05.1998.

v) Subsequently, the appellant was appointed as Tractor Driver in the regular time scale of pay of Rs.3200-85-4900/-, vide order dated 31.01.2007 with some conditions, as undertaken by the appellant.

2.1. According to the appellant, he has not given any undertaking, as



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stipulated in the order dated 31.01.2007, whereas, he was compelled to put his signature in the typed down undertaking. Further, it is the contention of the appellant that, if he was appointed in the time scale of pay, as per the order dated 15.03.2000, his service would have been regularized with effect from the date of sanctioning the post. Therefore, challenging the above order dated 31.01.2007, the appellant filed the writ petition and the same dismissed by the learned single judge. The order of the writ court is impugned herein.

3. The learned counsel for the appellant submitted that, the G.O.Ms. No.84, dated 21.05.1998 does not apply to the category of Tractor driver and the said government order was issued, giving guidelines for appointment of the sanitary workers. But only as per the G.O.Ms.No.23, Municipal Administration and Water Supply Department dated 03.03.1998, which was issued sanctioning one post of Tractor Driver to each panchayat, the petitioner is eligible for appointment as Tractor Driver. He further submitted that the learned Judge dismissed the writ petitions erroneously by relying upon the **Umadevi case**, which is not relevant to the present case.



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Hence, the order of the writ court is liable to be set aside.

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4. The learned Additional Advocate General submitted that there was a ban for appointment of regular employees from the year 2001 to 2006 and hence, the appellant was not appointed in the regular time scale of pay at the time of his appointment on 01.09.2001. Apart from that, the appellant obtained license for Heavy/Transport vehicle only on 17.01.2001 and he has not completed 5 years of service as Tractor Driver, on the date of his appointment. Therefore, after lifting up of the ban, by taking into account the fact that the appellant was already continued on daily wage basis and acquired experience of five years as Tractor driver, he was considered for regular appointment and accordingly, he was appointed as tractor driver in a time scale of pay, vide order dated 31.01.2007. Therefore, the appellant is not entitled to any monetary benefits prior to 30.01.2007. As such, he seeks for dismissal of the writ appeal.

5. Heard the learned counsel for the appellant and the learned counsel for the respondents and we have perused the materials on record.



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6. It is an admitted fact that, as per G.O.Ms.No.23, dated 03.03.1998, the Government had sanctioned one post of Tractor Driver to each Panchayat and also given instructions to fill up the above post. Subsequently, pursuant to the above government order, the Director of Town Panchayat, Kuralagam, Chennai had issued the proceedings in Na.Ka.No.5221/2000/A3, dated 15.03.2000, in which, it is specifically ordered as follows.

2. பார்வை-1 மற்றும் 2ல் கண்டுள்ள அரசாணைகளில், பேரூராட்சிகள் இயக்குநருக்கு வழங்கப்பட்டுள்ள அதிகாரங்களின்படி, ஓட்டுநர் பணியிடம் மாத ஊதியம் [ரூ.3200-85-4900](#) எனும் ஊதிய விகிதத்தில் கீழ்காண் நிபந்தனைகளுக்குட்பட்டு தோற்றுவித்து ஆணையிடப்படுகிறது.

3. இப்பணியிடத்தினை நியமனம் செய்கையில் பார்வையில் கண்டுள்ள அரசாணைகளில் குறிப்பிடப்பட்டுள்ள நிபந்தனைகள் உரிய முறையில் கடைபிடிக்கப்படுகிறதா என்பதையும், வேலைவாய்ப்பகம் மூலம் பட்டியல் பெறப்படுமானால் அது குறித்து வழங்கப்பட்ட அறிவுரைகள் பின்பற்றப்படுகிறதா என்பதையும் கண்காணித்திட, காஞ்சீபுரம் மண்டல பேரூராட்சிகள் உதவி இயக்குநர் கேட்டுக்கொள்ளப்படுகிறார்.

7. Following the above order of the Director of Town Panchayat, the



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Assistant Director of Town Panchayat, Kancheepuram Division, vide memorandum dated 30.08.2001, has ordered as follows.

பார்வை-1ல் காணும் கடிதம் பரிசீலிக்கப்பட்டது. பேரூராட்சிகளின் ஓட்டுநர்கள் நியமனம் தொடர்பாக பார்வை 2-ல் (G.O.Ms.No.23, dated 03.03.1998) காணும் அரசாணையில் தெரிவித்துள்ள வழிமுறைகளை பின்பற்றி, செயல் அலுவலரே இந்நியமனம் தொடர்பாக உரிய நடவடிக்கை மேற்கொள்ள அறிவுறுத்தப்படுகிறது.

8. Pursuant to the above order, the Executive Officer, Walazabath Town Panchayat, had issued an order, vide Na.Ka.No.300/99/A1, dated 01.09.2001, thereby appointing the appellant as Tractor Driver on consolidated pay for a period of three years i.e. I year -Rs.900/-; II year- Rs.990/-; III year Rs.1089/-, as per the G.O.Ms.No.84, dated 21.05.1998. It is stated in the above order that, since the applicant joined the service in the Walazabath Town Panchayat after 01.01.1997, he was appointed as per G.O.Ms.No.84, dated 21.05.1998.

9. At this juncture, it is to be noted that the above said G.O.Ms.No.84, dated 21.05.1998 was issued creating the post of Sweeper/Sanitary workers



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and guidelines were issued for such appointment of the sanitary workers, not for appointment of Tractor Driver. It is the specific contention of the appellant that, when there was a specific order by the Director of Town Panchayat, Kuralagam, Chennai, dated 15.03.2000, creating one post of Tractor Driver to the Walazabath Town panchayat, with time scale of pay Rs.3200-85-4900 per month, the appellant should have been appointed as Tractor Driver with a time scale of pay, as stated supra by the Executive Officer of the Walazabath.

10. However, for non appointment of the appellant as Tractor Driver on regular basis, as per G.O.Ms.No.23, dated 03.03.1998 as well as the proceedings of the Director of Town Panchayat, Kuralagam, Chennai, dated 15.03.2000, it is replied by the respondents that, since there was a ban for appointment of regular employees from the year 2001 to 2006 and also the appellant has not acquired experience of five years as Tractor Driver on the date of his appointment, he was appointed on 01.09.2001 on consolidated pay as tractor driver and after lifting up of the ban by the government, he was considered for regular appointment and was appointed as tractor driver



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in a time scale of pay, vide order dated 31.01.2007.

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11. Replying to the above, the learned counsel for the appellant submitted that, if the appellant was appointed in the time scale of pay, as per the order dated 15.03.2000, his service would have been regularized with effect from the date of sanctioning the post and he would have been eligible to get the pensionary benefits. Therefore, he seeks to regularise the service of the appellant from the date of his initial appointment on 01.09.2001.

12. The appellant was appointed on consolidated pay on 01.09.2001 as per the Government order and he has accepted the order without any objection and after a lapse of 5 years, he has approached the Court seeking for regularization of service with effect from the date of initial appointment and for other monetary benefits from 01.09.2001. Therefore, we are not inclined to accept the contention of the appellant. However, considering the facts and circumstances of the case and due to reasons stated above, this Court would consider for grant of pensionary benefits with effect from 01.09.2001. To the said extent, we have agreed to consider the case of the



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appellant.

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13. Accordingly, the third respondent is directed to regularise the service of the appellant from the date of 01.09.2001, without any monetary benefits and his service from 01.09.2001 as Tractor Driver, should be taken into account for the purpose of calculating the qualifying service for pensionary benefits. The above exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

14. With the above direction, this writ appeal is disposed of. No costs.

(D.K.K.J.) (K.B.J.)

08.07.2024

Internet: Yes/No

Index : Yes/No

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To

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai 600 009.

2. The Director of Town Panchayat,

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Kuralagam, Chennai-108,
Now, at the Director of Town Panchayat,
M.R.C.Nagar, Chennai 600 028.

3. The Executive Officer, Walajabath Town Panchayat,
Thiruvannamalai District,
Now, at the Executive Officer,
Walajabath Town Panchayat, Kancheepuram District.



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