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W.A.Nos.491 & 492 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2025

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE Dr. JUSTICE A.D. MARIA CLETE

W.A.Nos.491 & 492 of 2023

V.Sreenivasan
R.Arumugam

.. Appellant in WA.491 of 2023
.. Appellant in WA.492 of 2023

Vs.

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

2. The Director of Municipal Administration
Ezhilagam, Chepauk
Chennai 600 005

3.Avadi Municipality
Rep. by its Commissioner
Avadi, Chennai 600 054

.. Respondents in both W.As.

Writ Appeals filed under Clause 15 of the Letters Patent challenging the common order dated 07.07.2022 passed in W.P.Nos.7026 & 7027 of 2014.



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For Appellant in both W.As	: Mr.K.Shanmugakhani
For RR1 and 2 in both W.As	: Mr.C.Selvaraj Additional Government Pleader
For R3 in both W.As	: Mr.R.Gopinath Standing Counsel

COMMON JUDGMENT

(Delivered by R.SURESH KUMAR, J.)

Since the intra-court appeals have been arising out of the impugned common order passed by the Writ Court dated 07.07.2022 in W.P.Nos.7026 and 7027 of 2014, these appeals were heard together and disposed of by this common judgment.

2. The appellants were engaged on daily wage basis by the respondent Municipal Corporation, which was the then Municipality sometime in 1986 and 1988. In that capacity of daily wage employees, they had been working for several years. In order to streamline these kind of daily wagers working in various local bodies, the Government having taken a policy decision, come out with G.O.(Ms.)No.125, Municipal Administration and Water Supply (ME.3) Department, dated 27.05.1999 (in short " G.O.125"), *inter alia* the import of the

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G.O. reads thus :

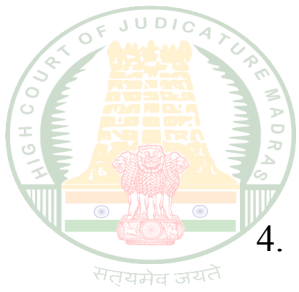
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"... ..

ii) The daily wage employees who have found a place in the aforesaid list are to be appointed in their related Municipalities/Corporations/Town Panchayats in accordance with their qualification in the entry level posts then and there and that from the date of their appointment, besides their services being regularised, the benefits of their period of service should also be taken into account. From the period of regularisation of their service, upto one year, they would be posted on a consolidated pay of Rs. 2,000/- per month. After one year, they would be brought to time scale of pay. The period of service prior to the regular appointment of the daily wage employees, would not be taken into account for their service benefits, Till the daily wage employees are/appointed in the vacancies found in the list mentioned in the aforesaid para 3(1), fresh appointments should not be made through Employment Exchanges.

iii)"

3. As per the import of G.O.125 *supra*, these daily wage employees shall be brought under consolidated pay of Rs.2,000/- per month, immediately after the date of G.O.125 *supra* and after successful completion of one year on consolidated pay basis, they would be brought under the regular time scale of pay. This is the regularisation process to be taken as stated by G.O.125 *supra*.



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4. Despite G.O.125 *supra* having been issued, since no orders have been passed in favour of these appellants regularising their services as contemplated under G.O.125 *supra*, these appellants have initially approached this Court by filing two writ petitions in W.P.Nos.1658 & 1659 of 2009, where they challenged the order dated 23.12.2008, whereby, such a regularisation by bringing them under the time scale of pay was refused.

5. These two writ petitions having been heard, were allowed by the orders of the writ Court dated 02.02.2010, where the following orders have been passed :

"11. For the foregoing reasons, as held by this court in the above said writ petition in W.P.No.23080 of 2008 (R.Venkatesalu vs. The Director of School Education and another) dated 23.12.2008, this court is also inclined to allow the writ petition by setting aside the impugned order. Accordingly the impugned orders are set aside. The respondents are directed to regularise the services of the petitioners in terms of G.O.Ms.No. 125 dated 27.5.1999 within a period of three months from the date of receipt of copy of this order.

12. With this direction, the writ petitions are allowed. Consequently, the connected M.Ps are closed. No costs."

6. In fact, the said order has been taken on appeal by way of an intra-court appeal in W.A.No.1529 & 1530 of 2010, which was also dismissed by the



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judgment of the Division Bench dated 19.08.2010, whereby, the writ order has been confirmed, as against which, the Municipal Corporation has preferred an appeal by way of S.L.P. before the Hon'ble Supreme Court in S.L.P.(Civil) No.33756 & 33757 of 2010, which also came to be dismissed by order dated 24.02.2011. Therefore, it has become final and the issue has been given quietus by the successive orders passed by the law Courts as stated *supra*.

7. Despite these orders having been passed, the judgment dated 19.08.2010 as well as the order dated 02.02.2010 passed by the Division Bench as well as the Single Bench of this Court, allowing the writ petitions filed by the present appellants, had not been complied with, which triggered them to file a contempt petition and pursuant to the filing of contempt petition in Contempt Petition No.890 of 2010, the Municipal Corporation has come forward to issue orders on 24.02.2011, whereby, the services of the appellants have been regularised by bringing them under the time scale of pay at Rs.4,800-Rs.10,000/- with grade pay Rs.1300/-.



WEB COPY Corporation dated 24.02.2011, reads thus :

“மேலும் ஆவடி பெருநகராட்சியின் பொது சுகாதாரப்பிரிவில் துப்பரவு பணியாளர்களின் பணியிடங்கள் காலியாக உள்ளதை ஏற்று, முன்னால் பகுதி நேர பம்ப் ரூம் அட்டெண்டர்/காவலராகப் பணியாற்றிய திருவாளர்கள் ஆர்.ஆறுமுகம் மற்றும் வி.சீனிவாசன் ஆகியோர்களை, பொது சுகாதாரப் பிரிவில் துப்பரவு பணியாளர்களாகப் பணி நியமனம் செய்ய ஆவடி பெருநகராட்சி ஆணையருக்கு அனுமதி அளிக்கலாம் என கருதி அரசாணை (ப) எண்.84, நகராட்சி நிர்வாகம் மற்றும் குடிநீர் வழங்கல் (நப3) துறை, நாள் 17.02.2011ல் ஆணையிடப்பட்டுள்ளது.

எனவே மேற்கண்ட அரசாணையில் அனுமதித்து ஆணையிடப்பட்டுள்ளவாறு இந்நகராட்சியில் முன்னால் பகுதி நேர பம்ப் அட்டெண்டர்/காவலராகப் பணியாற்றிய திருவாளர்கள் ஆர்.ஆறுமுகம் மற்றும் வி.சீனிவாசன் ஆகியோர்களை இந்நகராட்சியின் பொது சுகாதாரப் பிரிவில் காலியாகவுள்ள துப்பரவு பணியாளர் பணியிடங்களில் துப்பரவு பணியாளர்களாக ஏற்ற முறை ஊதிய விகிதத்தில் (4800-10000 தர ஊதியம்-1300) அடிப்படை ஊதியம் ரூ.6100/- என்ற விகிதத்தில் தற்காலிகமாக நியமனம் செய்து ஆணையிடப்படுகிறது.”

Not satisfied with this order dated 24.02.2011 passed by the Municipal Corporation regularising service of the appellants by bringing them under the time scale of pay prospectively *i.e.*, from 24.02.2011 alone and not from completion of one year period after G.O.125 *supra* and as per the import of G.O.125 *supra*, these appeals are filed as second round of litigation in W.P.Nos.7026 & 7027 of 2014.

9. In the said writ petitions, they sought for writ of mandamus directing the respondent therein to appoint the petitioners on permanent basis w.e.f. 27.05.1999

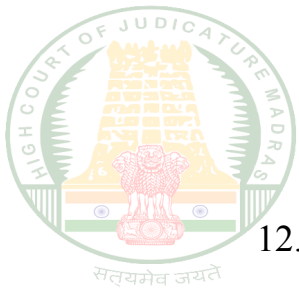


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on consolidated pay basis for one year and thereafter, the said period of one year, to place the petitioners on time scale of pay with all consequential benefits.

10. The learned writ Court, having heard the said writ petitions, by the common impugned order, dismissed the writ petitions stating that as per the earlier round of litigation, when directions have been given to regularise their services as per import of G.O.125 *supra* and the same has been complied with, there could be no further grievance of the petitioners and if at all, they had any other grievance, they could have agitated their issue then and there itself, which they have not done and therefore, they cannot re-agitate once again in the year 2014. On this ground, the learned writ Court dismissed the writ petitions through the impugned order.

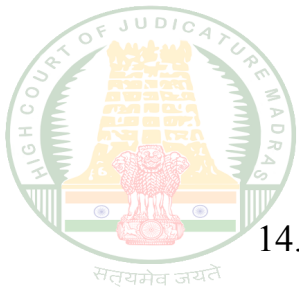
11. We have heard Mr.K.Shanmugakhani, learned counsel for the appellants, Mr.C.Selvaraj, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.R.Gopinath, learned Standing Counsel appearing for the 3rd respondent.



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12. It was argued on behalf of the respondents that the stand taken by the learned Single Judge in rejecting the writ petitions that the benefit has been given to these employees on 24.02.2011, by regularising their services and brought them under the regular time scale of pay and if at all, the benefit that has been given prospectively had been the grievance of the petitioners, they could have agitated the issue immediately. In fact, having accepted the order dated 24.02.2011, all of a sudden, after few years, they cannot turn around and file these writ petitions with a different prayer seeking regularisation with the time scale of pay on completion of one year period from 27.05.1999.

13. Though such argument was advanced on behalf of the respondents by the learned respective counsel, we are not impressed with the same, for the simple reason that, the very regularisation itself flow from the import of G.O.125 *supra*. The import of G.O.125 *supra* has been extracted herein above, which makes clear that these daily wagers who are entitled to get absorption in consolidated pay basis for a period of one year and thereafter, they should be brought under the regular time scale of pay. When that being so, for nearly about 10 years, nothing has evoked from the respondent Municipal Corporation by giving such regularisation to these employees.



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14. This position made these appellants to approach this Court and file writ petitions in the year 2009 itself. Those writ petitions were allowed, challenging which, the Municipal Corporation filed appeals. The Division Bench also dismissed the appeals filed by the Municipal Corporation on 19.08.2010. Still feeling aggrieved over the same, the Municipal Corporation preferred S.L.P. before the Hon'ble Supreme Court which was also dismissed on 24.01.2011. Therefore, the delay caused for all these years in not implementing G.O.125 *supra* is the reason attributable only on the Municipal Corporation and not on the employees. Therefore, the right which has been accrued by virtue of G.O.125 *supra* cannot be taken away or abrogated, merely because the same has not been acted upon by the Municipal Corporation.

15. That being the position, the learned writ Court, even though having considered all these aspects, has not considered the said factual matrix in a proper perspective. The learned writ Court, in fact, had stated that once the writ petitions filed in the first round of litigation before the writ Court were allowed on 02.02.2010 and the same has been implemented on 24.02.2011, there ends the matter and if at all, there was any grievance of such implementation, that could

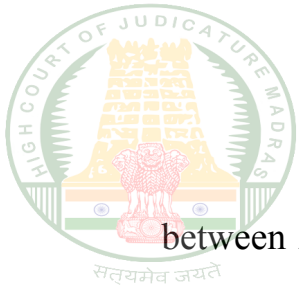


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have been agitated then and there and it cannot be re-agitated. These are the reasons given by the writ Court which cannot be approved by this Court, for the reasons which we have discussed herein above. Resultantly, the impugned order is liable to be interfered with.

16. Therefore, the impugned order passed by the writ Court is set aside and as a sequel, there shall be a direction to the Municipal Corporation to issue a revised order dated 24.02.2011, whereby, the regularisation of these appellants shall date back from 27.05.1999, the date on which G.O.125 *supra* was issued. From that date up to 27.05.2000 for the one year period (up to 26.05.2000), they must be treated as employees on consolidated pay basis at Rs.2,000/- per month. From 27.05.2000 onwards, since they are entitled to get regularisation by bringing them under the time scale of pay to which they are entitled to, they shall be given the benefit of regularisation with the time scale of pay w.e.f. 27.05.2000.

17. As such a benefit had been given now from 24.02.2011, the benefit should date back from 27.05.2000 by the revised order to be passed by the Municipal Corporation as directed above and the salary arrears for the period



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between 27.05.2000 and 24.02.2011 shall be calculated and paid to the appellants

within a period of three months from the date of receipt of a copy of this judgment.

Both the writ appeals allowed on the terms as indicated above. No costs.

(R.S.K., J.) (A.D.M.C., J.)
10.03.2025

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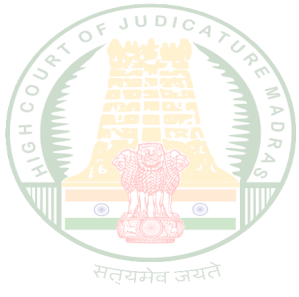
Neutral Citation: Yes/No

To

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

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Ezhilagam, Chepauk
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