

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-08-2015

CORAM:

THE HON'BLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.23657 of 2015

- 1 Ayyavu S/o.Kaliappan
No.7/67 Harijana Colony
Narasimma Nayakan Palayam
Coimbatore - 641 031.
- 2 M.Palanichamy
S/o.Murugan No.7 O.No.73/ N.No.65
Harijana Colony Narasimma Nayakan Palayam
Coimbatore - 641 031.
- 3 Kumaran
S/o.Kandasamy No.7/32 Union Office
Backside Narasimma Nayakan Palayam
Coimbatore - 641 031.
- 4 G.Sivasakthi
S/o.Govindan No.7/48 Harijana Colony
Narasimma Nayakan Palayam
Coimbatore - 641 031.
- 5 M.Rathinasigamani
S/o.Muthan No.7/48 Harijana Colony
Narasimma Nayakan Palayam
Coimbatore - 641 031.

Petitioners

Vs

- 1 The Secretary to Govt of
Tamilnadu Municipal Administration and
Water Supply Dept, Fort St.George, Chennai
- 2 The Director of Town Panchayat
Kuralagam, Chennai
- 3 The Executive Officer
Narasimma Nayakan Palayam
Coimbatore District

Respondents

Writ Petition under Article 226 of the Constitution of India praying for a writ of mandamus directing the 1st and 2nd respondents to regularize the services of the petitioners by bringing them on time scale of pay with effect from 21.4.2001 provided under G.O.Ms. No.199 (MAWS Department) dt 12.8.1997 with all consequential and attendant benefits

For petitioners : Mr. V. Vijay Shankar
For respondent : Mr. V. Subbiah, Spl.G.P. for
RR1 & 2
Mr. P. Chinnadurai, GA for R3

ORDER

By consent, the main writ petition is taken up for final hearing.

2. The petitioners state that they have been appointed as sanitary workers on NMR basis by the third respondent and vide G.O.Ms.No.199 (Municipal Administration Water Supply Department) dated 12-08-1997, sanitary workers working on NMR basis in Town Panchayat and Municipality were brought in regular time scale of pay in a phased manner i.e., initially they will have to be placed on consolidated basis pay of Rs.900 for a period of one year and thereafter, the said pay will be increased by 10% for three years totally. The service of the petitioners was not regularised citing the ban order which was in operation at the relevant point of time and on 28-08-2006, all of them were brought on regular time scale of pay and thereafter, they gave representation, dated 20-06-2014 seeking for regularisation of service with effect from 21-04-2001. Since no orders have been passed, the petitioners have come forward with the present writ petition.

3. The learned counsel appearing for the petitioners has drawn the attention of this Court to the common judgment, dated 02-04-2014 made in W.A.Nos.316 and 317 of 2013 and the judgment, dated 30-06-2015 made in W.A.Nos.1289 of 2014 etc., batch reported in 2015 (3) LW 614 (The Secretary to Government of Tamil Nadu Vs. M. Rani) and would submit that it is suffice to dispose of the present writ petition in the light of the latest judgment.

4. This Court heard the submissions of Mr. V. Subbiah, learned Special Government Pleader, who made his submissions in response to the first and second respondents.

5. It is relevant to extract the following paragraphs from the judgment reported in 2015(3) LW 614(cited supra):

"26 The employees involved in the instant cases are Sanitary Workers, Electrician, Electrician Helper, Fitter, Meter Reader, Pipe Line Maintenance Helper, Overhead Tank Operator, Watchman, Office Assistant, Motor Operator, etc. appointed in Town Panchayats under other Government Orders,

wherein, several Single Benches and Division Benches have considered the matter and held that the said employees appointed on consolidated pay are entitled to regularisation after three years.

27 As we have observed in the preceding paragraphs, the respondents were informed at the time of their appointment that their appointment was on consolidated pay, subject to pay enhancement by 10% every year initially for a period of one year at a time, subject to renewal on assessment/review after a period of three years. It was also indicated to the respondents that their cases may be considered for regularisation on assessment of their performance. Thus, it is not a case of appointment on consolidated pay or daily wages simplicitor. Albeit appointment was of temporary nature, however, that was subject to regular assessment and probable regularisation on completion of three years. Thus, the respondents are not entitled to regularisation on completion of three years automatically, without consideration of their performance. On assessment/review, if it is found that their performance is satisfactory, they are entitled to be granted time scale on regular basis.

28 We are not delving into other questions, viz., res judicata and also regularisation of ad hoc/daily wage employees, as the same are not relevant and necessary in the contextual background of the facts involved in these cases. Thus, we are not referring to and discussing all the decisions cited by the learned counsel appearing for the parties on different issues, which are not germane for adjudication of the issue involved herein.

29 Resultantly, for the reasoning and analysis made hereinabove, the appeals are partly allowed to the extent that the respondents are entitled to consideration for grant of time scale on regular basis on the basis of performance assessment to be done on completion of three years and in the event, the performance of the respondents, is found satisfactory, they are entitled to regularisation on completion of three years, with all consequential monetary benefits. Costs made easy. Connected Miscellaneous Petitions are closed."

6. Though the prayer is for the larger relief, this Court in the light of the facts and circumstances directs the first respondent to take into consideration the judgment reported in 2015 (3) LW 614 (cited supra) and pass orders on the petitioners' representation, dated 20-06-2014 in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken by him to the writ petitioners.

7. The writ petition is disposed of, accordingly. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

glp

To

1 The Secretary to Govt of
Tamilnadu Municipal Administration and
Water Supply Dept, Fort St.George, Chennai

2 The Director of Town Panchayat
Kuralagam, Chennai

3 The Executive Officer
Narasimma Nayakan Palayam
Coimbatore District

+1 cc to Government pleader sr.40425

W.P.No.23657 of 2015

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