

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.Nos.17622 and 17623 of 2016

L.Parvathy .. Petitioner in W.P.No.17622 of 2016

M.Vijaya .. Petitioner in W.P.No.17623 of 2016

Vs.

1. Government of Tamil Nadu,
Rep. by its Secretary,
Environment and Forest Department,
Fort St.George,
Chennai-600 009.

2. Chairperson,
Tamil Nadu Pollution Control Board,
No.26, Mount Salai,
Guindy,
Chennai-600 032.

..Respondents in both the
Writ Petitions

Writ Petitions filed under Article 226 of the Constitution of India, praying for issuance of Writs of Mandamus to direct the respondents to consider the representation, dated 30.03.2016 and pass appropriate orders on the same, in accordance with law and on merits, within the time frame that may be stipulated by this Court.

For petitioners : Mr.Balan Haridas

For respondents : Mr.N.Inbanathan, Govt. Advocate for R-1

ORDER

The petitioners have filed these Writ Petitions praying for issuance of Writs of Mandamus to direct the respondents to consider the representations, dated 30.03.2016 and pass appropriate orders on the same, in accordance with law and on merits, within the time frame stipulated by this Court.

2. It is the case of the petitioners that they are working in the second respondent-Tamil Nadu Pollution Control Board (TNPCB) from March 1989/June 1987 respectively and doing the work of Scavenger/Sweeper. Their services were not regularised inspite of repeated requests and representations. Hence, they earlier approached this Court by filing Writ Petitions in W.P.Nos.7245 and 7246 of 2005 to direct the respondents to regularise the services of the petitioners as Scavenger/Sweeper/Office Assistant in the second respondent-TNPCB from the date when G.O.Ms.No.312, Environment and Forests (EC-II) Department, dated 21.07.1997, which was issued regularising the services of similarly situated employees and to give all monetary benefits. The said Writ Petitions were disposed of on 06.11.2009 by directing the respondents to regularise the services of the petitioners, if their service records are otherwise in order and to pass appropriate orders on or before 24.12.2009 and it was further observed by this Court that while regularising their services, the respondents should keep in mind the benefits given to the similarly placed persons on regularisation in order to avoid allegation of arbitrariness in the matter of regularisation of similarly placed employees. Thereafter, the first respondent, by G.O.(Nilai).No.24, dated 05.02.2011, directed for regularisation of their services in the post of Sweeper from the date of issuance of the said G.O.(Nilai).No.24. Subsequently, the second respondent-TNPCB issued order dated 26.05.2011 regularising their services in the post of Sweeper from 05.02.2011.

3. It is the further case of the petitioners that the second respondent-TNPCB, in the case of Narasamma, Sweeper, had regularised her services with effect from 05.08.1994 being the date on which she was initially engaged. Further, the second respondent-TNPCB, in the case of R.Chellammal, Sweeper, had regularised her services from 01.05.2003 and paid arrears of salary as well. However, in the case of the petitioners, a different stand had been adopted and their regularisation had been done only from the date of issuance of the said G.O.(Nilai).No.24. The second respondent-TNPCB, in the case of persons similarly placed like the petitioners, had regularised their services from the date of initial engagement. The petitioners had been discriminated in the matter of regularisation and consequently, monetary benefits and the coverage under the Tamil Nadu Pension Rules, had been denied to them.

4. It is further stated by the petitioners that as they have been working from 1989/1987, their services should be regularised from that period. Moreover, in view of various G.Os. issued, 50% of their services rendered on daily wage basis, should also be taken into account for the purpose of calculating the length of service, which has also not been done. The petitioners had been making this claim without prejudice to their claim that the yardstick adopted for the said Narasamma at the time of regularisation should be extended to the petitioners as well and all monetary benefits and the coverage under the Tamil Nadu Pension Rules, should also be

extended to them. In this regard, the petitioners have made separate representations to the respondents, dated 30.03.2016. In spite of receipt of the said representations, the respondents have not considered the same. Hence, the petitioners have preferred these Writ Petitions for the reliefs stated supra.

5. Considering the limited scope of the prayers made in these Writ Petitions, taking into consideration the factual aspects of the matter, this Court, without going into the merits of the case, directs the petitioners to give fresh representations, ventilating their grievance to the respondents, within a period of two weeks from the date of receipt of a copy of this order, by enclosing a copy of this order, and on receipt of such representations, the respondents are directed to consider those representations, pass appropriate orders and dispose of the said representations, on merits and in accordance with law, within a period of four weeks from the date of receipt of those representations. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioners and it is for the respondents to decide the same at the time of disposing of the said representations.

6. With the above observations and directions, the Writ Petitions are disposed of. No costs.

cs

Sd/-
Assistant Registrar
/TRUE COPY/
Sub-Assistant Registrar

Copy to

1. The Secretary,
Environment and Forest Department,
Fort St.George, Chennai-600 009.
2. The Chairperson,
Tamil Nadu Pollution Control Board,
No.26, Mount Salai,
Guindy, Chennai-600 032.

+1CC to MR.Balan Haridas Advocate SR.NO.68715

W.P.Nos.17622 and 17623 of 2016

VD[CO]
MK:02/01/2017