

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:15.03.2016

CORAM

THE HON'BLE Mr. JUSTICE SATISH K.AGNIHOTRI
and
THE HON'BLE Mr. JUSTICE M.VENUGOPAL

W.A.No.246 of 2016
and
C.M.P.No.4149 of 2016

- 1.The Secretary to Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai - 9.
 - 2.The Director of Town Panchayat,
Kuralagam Buildings,
Chennai - 108.
 - 3.The Executive Officer,
Pennathur First Grade Town Panchayat,
Pennathur, Vellore District.
- ..Appellants/Respondents
- Vs.
- 1.M.Madurai Veeran
 - 2.K.Subash Chandran
 - 3.G.Vasudevan
 - 4.A.Mahalingam
 - 5.Suguna
 - 6.K.Mani
- ..Respondents/Petitioners

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 24.07.2013 made in W.P.No.17607 of 2013.

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 2nd Respondent Dt.26.7.2006 issued in Na.Ka.No.3051/2006/A3 and the proceedings of the 3rd Respondent Dated 2.8.2006 issued in Na.Ka.No.109/2006 and quash the same restricting the date of bringing the petitioners into time scale

with effect from 23.6.2006 onwards alone and to issue

consequential direction to the respondents to bring the petitioners into the regular time scale from the date on which they completed three years consolidated pay services in the light of the Judgement of Division Bench Dt.23.6.2010 passed in WA.NO.385/2010 AND 47/2010 with all consequential service and monetary benefits.

For Appellants .. Mr.V.Jayaprakash Narayanan
Addl.Govt.Pleader

For Respondents .. Mr.P.I.Thirumoorthy

JUDGMENT

(Judgment of the Court was delivered by SATISH K.AGNIHOTRI, J.)

With the consent of learned counsel appearing for the parties, the writ appeal is taken up for final disposal.

2.The instant writ appeal is preferred against the order of the learned single Judge dated 24 July 2013 in W.P.No.17607 of 2013, whereunder, the appellants herein were directed to regularise the services of the respondents/writ petitioners on completion of three years from the date when they were appointed on consolidated pay into regular time scale of pay, within a period of three months from the date of receipt of the order and to pay monetary benefits within a period of four weeks thereafter.

3.The issue involved in the case on hand is as to whether the respondents/writ petitioners are entitled to be regularised in service on completion of three years from the date of their appointment on consolidated pay into regular time scale of pay.

4.Learned counsel appearing for the appellants submits that this very issue came up for consideration before the Full Bench of this Court in S.Dhanasekaran Vs. Government of Tamil Nadu ¹. The Full Bench has considered the issue in question and observed as under:

"28.In view of the foregoing discussions, we answer the question referred to us as follows:

(i)The view taken in W.P.(MD) Nos.4170 & 4171 of 2011, dated 02.04.2013, has got nothing to do with the Sanitary Workers, working in Municipalities and Municipal Corporations, who are governed by

G.O.Ms.Nos.101, 71 & 21, Municipal Administration and Water Supply Department, dated 30.04.1997, 05.05.1998 and 23.02.2006 respectively. Therefore, we have not examined the correctness of the views expressed in W.P.(MD) Nos.4170 & 4171 of 2011.

(ii)The view expressed in W.A. (MD) No.729/2013 is not the correct legal position in respect of Sanitary Workers, who are governed by G.O.Ms.Nos.101, 71 & 21, Municipal Administration and Water Supply Department, dated 30.04.1997, 05.05.1998 and 23.02.2006 respectively and accordingly, we, with respect, overrule the same.

(iii)Those Sanitary Workers, who were appointed as per G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.04.1997 or absorbed as per G.O.Ms.No.71, Municipal Administration and Water Supply Department dated 05.05.1998, are all governed by G.O.Ms.No.21, Municipal Administration and Water Supply Department dated 23.02.2006 in respect of their regularisation in service and such regularisation shall take effect only from 23.02.2006 and not from the date on which they had completed three years of service from the date of their initial entry into service."

5.In yet another decision rendered by this Bench on 30 June 2015 in The Secretary to Government of Tamil Nadu, Municipal Administration and Water Supply Department and Others Vs. M.Rani² referring to and in line with the Full Bench decision (supra), the writ appeals were partly allowed in the following terms:

"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.The facts involved in the case on hand are one and the same. Thus, the writ appeal is partly allowed in terms of the order passed by this Bench in The Secretary to Government of Tamil Nadu, Municipal Administration and Water Supply Department

and Others Vs. M.Rani (supra). No costs. Consequently, connected miscellaneous petition is closed.

mmi

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

TO

- 1.The Secretary to Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai - 9.
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 - 3.The Executive Officer,
Pennathur First Grade Town Panchayat,
Pennathur, Vellore District.
- + 1 cc to Mr.P.I.Thirumoorthy, Advocate Sr 17060 (28/3/16)

KR/17/3/16

W.A. No.246 of 2016

सत्यमेव जयते

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