

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.42083 of 2016

1. N.Subramanian
2. S.R.Palanisamy
3. Krishnappan
4. K.Rajendran
5. S.Dharmaraj Petitioners

vs.

1. The Principal Secretary to
Government of Tamilnadu,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai.
2. The Commissioner for Municipal
Administration,
Chepauk, Chennai - 5. Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, to direct the first respondent to regularize the service of the petitioners in light of G.O.Ms.No.198 (MAWS Department) dated 26.10.1998 by taking into account the letter of the 2nd respondent dated 23.01.2015.

For Petitioners : Mr.V.Vijay Shankar

For Respondents : Mr.K.Dhananjayan
Special Govt. Pleader

ORDER

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

2. The petitioners have come up with the present writ petition, seeking for issuance of a writ of mandamus, to direct the first respondent to regularize their services in light of G.O.Ms.No.198 (MAWS Department) dated 26.10.1998,

by taking into account the letter of the 2nd respondent dated 23.01.2015.

3. The case of the petitioners is that they joined the service in the Saravanampatti Town Panchayat as daily wage worker on NMR basis, prior to 1997. They were initially granted Rs.295/- per month as consolidated pay, which was periodically revised. The Director of Town Panchayat, pursuant to the powers conferred by the Government, sanctioned additional posts under various categories in several town panchayats as per the norms fixed. In respect of Saravanampatti Town Panchayat, the Director of Town Panchayats sanctioned one post of Meter Reader and seven posts of Over Head Tank Operator/Watchman by his proceedings dated 10.07.2000. As per G.O.Ms.No.198 (MAWS Dept) dated 26.10.1998, the employees will have to be initially appointed on consolidated basis for a period of three years and thereafter, on the basis of their performance, they will have to be brought on regular time scale of pay. But, the respondent continued to engage them as against the sanctioned posts.

4. It is the further case of the petitioners that the qualification required for the posts of Water Line Fitter and Meter Reader is X Std. and for Watchman is VIII Std. Except the 5th petitioner herein, who has 12th std. Qualification, none of the other petitioners possess the required qualification. In spite of the same, they were continuously discharging their duties as against the said posts. Due to lack of educational qualification, the petitioners still continues to work on consolidated basis without being regularized. Taking into account the fact that they have been in continuous employment for several years, the Town Panchayat sent several proposals to the Director of Town Panchayats. Since none of the proposals evoked any response, the petitioners were constrained to approach this court in W.P.No.4800 of 2011 seeking direction to the Director of Town Panchayat to regularise their service as per G.O.Ms.No.198 (MAWS Department) dated 26.10.1998 and in light of various proposals sent by the Town Panchayat. Pending the writ petition, the Town Panchayat, where they were employed, got merged with the Coimbatore Corporation and the same was also impleaded in the writ petition. This Court, by an order dated 25.06.2013, disposed of the said writ petition by directing the Director of Town Panchayat, Kuralagam, Chennai, to pass orders on the proposals Na.Ka.No.298/06/A, dated 10.06.2009

of the third respondent in the light of G.O.Ms.No.198, MAGWS Department, dated 26.10.1998 and also taking into account W.P.No.25620 of 2016, dated 17.09.2008 as confirmed in W.A.No.47 of 2010 dated 23.06.2010, within a period of twelve weeks from the date of receipt of a copy of this order.

4.1. Pursuant to the direction of this Court, various correspondence took place and by proceedings dated 23.01.2015, the second respondent has sent a communication to the first respondent to pass necessary orders. However, till date no order was passed by the first respondent. In the meantime, the second petitioner had attained the age of superannuation and as a result, he has been stopped from discharging duties. Similarly other few petitioners are also on the verge of their attaining the age of superannuation. Hence, the present writ petition has been filed.

5. Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, the petitioners are directed to give a fresh representation along with a copy of this order to the first respondent, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the said representation, the first respondent is directed to consider the same in the light of G.O.Ms.No.198 (MAWS Dept.) dated 26.10.1998, and also based on the letter sent by the second respondent dated 23.01.2015 and pass orders thereon, on merits and in accordance with law, within a period of six weeks thereafter. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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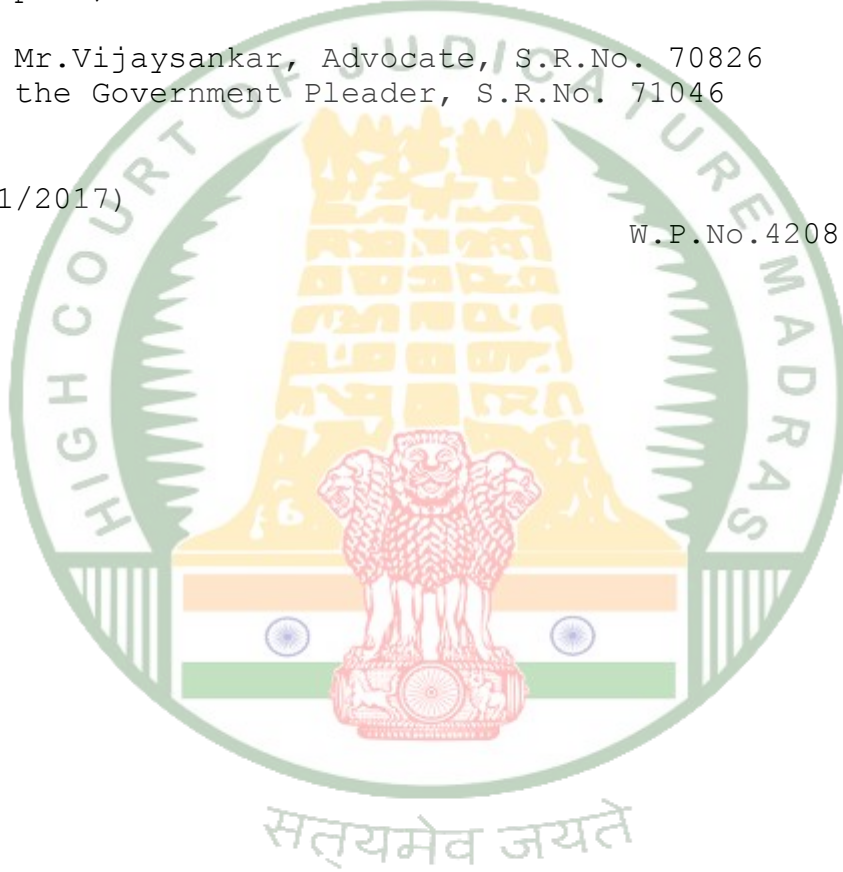
To

1. The Principal Secretary to
Government of Tamilnadu,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai.
2. The Commissioner for Municipal
Administration,
Chepauk, Chennai - 5.

+1cc to Mr.Vijaysankar, Advocate, S.R.No. 70826
+1cc to the Government Pleader, S.R.No. 71046

RJ(CO)
RS(18/01/2017)

W.P.No.42083 of 2016



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