

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.7.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH

AND

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

Writ Appeal Nos.1664 to 1666 of 2015

The Commissioner

Mayiladuthurai Municipality

Nagapattinam District.

... Appellant in all WAs

Vs.

S.Murugaraj

... Respondent-1 in WA.1664/15

P.Ganesan

... Respondent-1 in WA.1665/15

N.Murali

... Respondent-1 in WA.1666/15

The State of Tamil Nadu

rep. by its Secretary to Government

Municipal Administration & Water

Supply Department

Fort St. George, Chennai 600 009.

The Commissioner of Municipal Administration

Chepauk

Chennai 600 005.

... Respondents 2 & 3 in all WAs

Appeal under Clause 15 of the Letters Patent directed against the common order dated 11.10.2013 made in W.P.Nos.18284 to 18286 of 2013.

W.P.Nos.18284 to 18286 of 2013 : Petitions filed under Article 226 of the Constitution of India, praying this Honourable Court to issue a Writ of Certiorarified Mandamus or any other writ or order or direction in the nature of writ to call for all relevant records pertaining to the orders passed by the Commissioner, Mayiladuthurai Municipality, the 3rd respondent herein vide his proceedings Na. Ka. 8855/97/H1 dated 10.3.2006 and quash the same as illegal, arbitrary, unreasonable, being violative of principles of natural justice and thereby direct the respondents herein to regularise the services of the petitioner retrospectively with effect from respective dates of completion of 3 years of service i.e. 5.11.2001, 28.10.2001 and 19.10.2001 respectively as per G.O.Ms.NO.71 (Municipal Administration and Water Supply (MC.3) Department) dated 5.5.1998 with all consequential monetary and service benefits.

For Appellants : Mr.P.Srinivas
For Respondent-1
in all WAs. : Mr.A.R.Suresh
For Respondents : Mr.V.Jayaprakash Narayanan
2 & 3 in all WAs. Special Government Pleader

J U D G M E N T
(Delivered by Huluvadi G.Ramesh,J)

This appeal is directed against the common order dated 11.10.2013 made in W.P.Nos.18284 to 18286 of 2013.

2. Heard the learned counsel appearing for the appellants, learned counsel appearing for the first respondent and the learned Special Government Pleader appearing for the respondents 2 and 3.

3. The first respondent in all the appeals were appointed on various dates during October 1998 as Sanitary Workers on consolidated pay. As per G.O.Ms.No.71, Municipal Administration and Water Supply (MC.3) Department dated 05.5.1998, the services of the Sanitary Workers have to regularised on completion of three years of service on consolidated pay. However, the appellant, by proceedings dated 10.3.2006, regularised the services of the first respondent in all the appeals only with effect from 01.3.2006. Challenging the said order of the appellant, the first respondent in all the appeals filed writ petitions.

4. The learned single Judge, taking note of the fact that the first respondent in all the appeals have completed three years of service in 2001 and that they were regularised only with effect from 01.3.2006, which is contrary to G.O.Ms.No.71, Municipal Administration and Water Supply (MC.3) Department dated 05.5.1998, set aside the regularisation order passed by the appellant and direct the appellant to regularise the services of the first respondent in all the appeals as per G.O.Ms.No.71 dated 05.5.1998 and pay the arrears within a period of twelve weeks. Hence, the above appeal.

5. It is submitted by the learned counsel appearing for the first respondent that the decision of a Full Bench of this Court in Secretary to Government, Municipal Administration and Water Supply Department v. V.Marisamy [2017 (3) CTC 673] squarely applies to the case on hand.

6. In Secretary to Government, Municipal Administration and Water Supply Department v. V.Marisamy [2017 (3) CTC 673], the Full Bench has held as follows:

"29. In the result, Rev.Aplc.No.87 of 2014 is dismissed and Rev.Appl.Nos.223 and 254 of 2015 are allowed on the following terms:

a) Persons employed as sanitary workers and covered by G.O.Ms.No.101 dated 30.04.1997 and G.O. Ms.No.71 dated 05.05.98 are entitled to be regularized after the completion of the respective period under consolidated pay as specified in the Government Orders from the date of their initial appointment.

b) Any orders passed by any Municipality regularizing the service based on G.O.Ms.No.21 dated 23.02.2006, Full Bench Judgment dated 29.11.2013 and G.O.Ms.No.166 dated 31.12.2014 shall be recalled and appropriate orders shall be passed as held above."

7. Admittedly, the above decision is squarely applicable to the instant case. Therefore, these writ appeals are disposed of in terms of the decision of the Full Bench referred to above. However, since it is submitted that a Special Leave Petition is pending before the Supreme Court, we make it clear that this order shall be subject to the order to be passed in the Special Leave Petition by the Supreme Court. However, there shall be no order as to costs. Consequently, M.P.Nos.1 of 2015 in all the writ appeals are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kpl
To

1. The Secretary to Government
Municipal Administration & Water Supply Department
Fort St. George, Chennai 600 009.
2. The Commissioner of Municipal Administration
Chepauk, Chennai 600 005.

+3cc's to Mr.A.R.Suresh, Advocate, S.R.No.48612
+1cc to Mr.P.Srinivas, Advocate, S.R.No.49285

W.A.Nos.1664 to 1666 of 2015

SV(CO)
CA(03/08/2017)