

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.30413 of 2016

- 1.D.Aruldass
- 2.K.Udayakumar
- 3.N.Narashimman
- 4.Rajendran
- 5.A.Mani
- 6.J.Jayaseelan
- 7.Y.Premkumar
- 8.M.Devadhanam
- 9.N.Chidambaram
- 10.M.Karunanithi
- 11.P.Isravel
- 12.R.Kumar
- 13.A.Shanmugam
- 14.A.Mariya Rose
- 15.R.Chokkalingam
- 16.A.Thangamuthu
- 17.A.Ponnusamy
- 18.K.Venkatesalu
- 19.M.Saravanan
- 20.V.Govindaraj

... Petitioners

- Vs
1. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai - 9.
 2. The Commissioner of Municipal Administration,
Chepauk, Chennai - 5.
 3. The Regional Director of Municipal Administration,
Kagithapattarai, Sarathy Nagar,
Vellore District.

4. The Commissioner,
Vellore City Municipal Corporation,
Velllore, Vellore District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records on the file of the fourth respondent relating to the order issued in Na.Ka.No.9505/2013/H2, dated 24.06.2016, and quash the same and direct the respondents to revise the regularization of the services of the petitioners in the post of Sanitary Worker with effect from the date on which they have completed three years of service on consolidated pay in the fourth respondent Corporation and consequently grant seniority, promotion, arrears of pay, pension, monetary benefits etc., to the petitioners and to pass such further orders.

For petitioners : Mr.D.Aruldass
party-in-person)

For R1 to R3 : Mr.V.Jayaprakash Narayanan, Spl.GP

For R4 : No Appearance

O R D E R

The present writ petition is directed against the impugned proceedings dated 24.06.2016 of the fourth respondent / the Commissioner, Vellore City Municipal Corporation, Vellore, in rejecting the request of the petitioners to regularize their services in the post of Sanitary Worker with effect from the date on which they have completed three years of service on consolidated pay in the fourth respondent Corporation.

2. Heard both sides.

3. It is stated in the affidavit filed by the petitioners that all these petitioners were appointed as Sanitary Workers on daily wage basis in the erstwhile Vellore Municipality in the years 1986 and 1992 through the district employment exchange. In the year 2008, the said Vellore Municipality was upgraded as Vellore City Municipal Corporation.

4. It is the grievance of the petitioners that when they are all working from the date of their respective appointment as Sanitary Worker without giving any room for complaint, the Government issued a G.O.Ms.No.528, Personnel & Administrative Reforms Department, dated 10.10.1988, stating that persons, who have completed three years of service on consolidated pay in any Government organization, are eligible to be brought in to regular time scale of pay. Therefore, pursuant to the above said order, the services of the petitioners should

have been brought into regular time scale of pay on completion of three years of service on consolidated pay, namely, in the year 1989 in respect of 14th petitioner/Mariyarose and in respect of others, in the year 1995. However, on the other hand, the services of the petitioners were regularized only in the years 1999, 2000, 2001 and 2006, which ultimately caused loss of their seniority and promotion, apart from losing of monetary benefits from the year 1995.

5. In a similar circumstances, when similarly placed persons filed a Writ Petition No.18492 of 2013 seeking to regularize their services from the date on which they have completed three years of consolidated pay services, this Court, by order dated 24.07.2013, allowed the writ petition with a direction to the respondent therein to regularize the services of the petitioners therein on completion of three years of service from the date when they were appointed on consolidated pay into regular time scale of pay. For better appreciation, relevant portions of the said judgment are extracted below:

"12. The writ appeal was filed against the order dated 17.09.2008 in W.A.No.47 of 2010. The First Bench of this Court dismissed the writ appeal by a common judgment, dated 23.06.2010 in W.A.Nos.47 and 385 of 2010. The Division Bench confirmed the order of the learned Single Judge. While confirming the order, the Division Bench noted that similar order was confirmed by a Division Bench of this Court by an order dated 19.12.2008 in W.A.No.1454 of 2007.

13. The Special Leave to Appeal (Civil) No.26605 of 2010 preferred against the order dated 23.06.2010 in W.A.No.47 of 2010 was rejected by the Apex Court on 27.09.2010.

14. Another Special Leave to Appeal (Civil) No.16217 of 2009 preferred against the order dated 19.12.2008 in W.A.No.1454 of 2007 was also rejected by the Apex Court on 16.03.2012.

15. It is also admitted that those orders were implemented and benefits were given to sanitary workers on completion of three years of service on consolidated pay in terms of G.O.Ms.No.199, dated 12.08.1997.

16. In these circumstances, the impugned orders dated 27.07.2006 of the second respondent and 31.07.2006 of the third respondent, are quashed. The respondents are directed to regularise the service of the 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 copy of this order and monetary benefits pursuant to the regularization shall be paid to the petitioners within four weeks thereafter."

6. Although the learned Special Government Pleader for the respondents sought to argue that since all these petitioners were appointed on consolidated pay, the Government order passed in G.O.Ms.No.199, Municipality & Water Supply Department, dated 12.08.1997, cannot be made applicable to them, this Court is unable to accept the said submission, for, as stated above, for the very same similarly placed persons, this Court, by taking note of the various orders passed by this Court as well as the Apex Court and also taking note of the fact of implementation of the said orders by the Government vide G.O.Ms.No.199, dated 12.08.1997, directed the respondent therein to regularize the services of the similarly placed persons on completion of three years from the date when they were appointed on consolidated pay. Therefore, in my view, denying the same relief to the petitioners would amount to discrimination and violation of Article 14 of the Constitution of India.

7. Besides, the Government have also issued another order in G.O.Ms.No.528, P&AR Department, dated 10.10.1988, stating that persons, who have completed three years of service on consolidated pay in any Government organization, are eligible to be brought into regular time scale of pay. Therefore, in my view, the petitioners, who were appointed through the employment exchange on consolidated pay as Sanitary Worker, ought to have been regularized on completion of their respective three year service. Thus, the denial of the respondent to regularize their services on completion of three year consolidated service is wholly untenable.

8. Accordingly, for the reasons stated above, the impugned proceeding is set aside. Consequently, the respondents are directed to regularize the services of the petitioners with effect from the date on which they have completed their respective three year service on consolidated pay, along with other consequential monetary benefits, within a period of eight

weeks from the date of receipt of a copy of this order. In fine, the writ petition is allowed. No Costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rkm

To

- 1.The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai - 9.
- 2.The Commissioner of Municipal Administration,
Chepauk, Chennai - 5.
- 3.The Regional Director of Municipal Administration,
Kagithapattarai, Sarathy Nagar,
Vellore District.
- 4.The Commissioner,
Vellore City Municipal Corporation,
Vellore, Vellore District.

+1cc to M/s.D.Aruldass, Advocate, S.R.No.44675/17

+1cc to the Government Pleader, S.R.No.44750/17

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AR(CS IV)
CU(13/07/2017)