



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.07.2017

CORAM :

WEB COPY

**THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN  
AND  
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.A(MD)No.987 of 2017  
and  
C.M.P(MD) .No.6720 of 2017

1. The Government Secretary  
Backward Class &  
Most Backward Class,  
Welfare Department, Secretariat,  
Anna Salai, Chennai.
2. The Commissioner,  
Most Backward Class &  
De-notified Community Welfare,  
Ezhillagam, Chepauk, Chennai.
3. The Joint Director,  
Kallar Reclamation,  
Madurai-20.

... Appellants

**Vs.**

- 1.G.Muthiah
- 2.C.Kottai Samy
- 3.K.Pandiarajan

... Respondents

**Prayer :** Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order on 13.03.2017 and passed in W.P(MD).No.10241 of 2010.

Prayer in WP(MD). 10241/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS or any other writ or order or direction in the nature of writ, to call for the records in G.O.(D).No.16 dated 15.03.2010 issued by the 1st respondent and quash the same and further direct the 1st respondent to regularise the service of the petitioners in Kallar Reclamation Hostels from 31.12.1998 and granting all service benefits.

For Appellants : Mr.T.S.Md.Mohideen, AGP  
For Respondents : Mr.S.Vijayakumar

**J U D G M E N T****(Judgment of the Court was made by G.R.SWAMINATHAN, J.)**

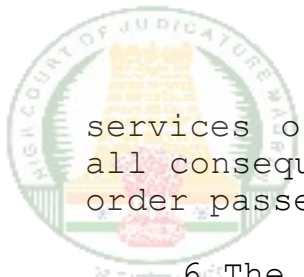
The Government of Tamil Nadu is on appeal questioning the order dated 13.03.2017 allowing W.P(MD).No.10241 of 2010 filed by the respondents herein.

2. According to the writ petitioners / respondents herein, they were appointed as Cooks in Government Kallar Reclamation Students Hostel on 08.12.1994 on consolidated pay. They were brought under regular scale of pay only on 26.03.2007. However, similarly placed persons who were appointed on 24.11.1994 were placed in time scale of pay vide G.O.Ms.No.67, dated 02.07.1998. According to the writ petitioners, this is a clear act of discrimination. When similarly placed persons were given time scale of pay within 3 ½ years, there was no justification for deferring the same in the case of the writ petitioners. On account of such delay in regularizing in their services, the pensionary rights of the writ petitioners have been affected. They therefore represented to the authorities. There was no response. Hence, they filed WP(MD).No.13767 of 2009. This Court directed the Government to consider the representations. But, the appellants herein by order dated 15.03.2010 rejected the petitioners request. Hence, they filed another writ petition. The learned Judge allowed the writ petition by order dated 13.03.2017. Aggrieved by the same, this intra Court appeal has been filed.

3. Heard the learned Additional Government Pleader for the appellants and the learned counsel for the respondents.

4. The learned Additional Government Pleader would contend that the writ petitioners did not question the order whereby they were brought into time scale of pay with effect from 26.03.2007 and that therefore the writ petition was not maintainable. This is too technical an objection. The writ petitioners have founded their case on the principle of equality. In the appeal, the contention raised by the writ petitioners with reference to G.O.Ms.No.67, dated 02.07.1998 has not been dealt with. When similarly placed persons were brought under time scale of pay way back in 1998, there is no justifiable reason for delaying the extension of the very same benefit by another 9 years. It is true that there was a ban of recruitment between 2001 and 2006. But the cause of action of the writ petitioners dates to the year 1998.

5. The learned Judge rightly noted that the persons who are brought into regular time scale of pay were also appointed only on consolidated pay. No grounds have been made out for treating the writ petitions on a different footing. The question of lack of vacancies also would not arise. The writ petitioners were only working as Cooks even on 01.07.1998. Therefore, the learned single Judge was right in directing the appellants herein to regularize the



services of the writ petitioners with effect from 01.07.1998 with all consequential benefits. We see no reason to interfere with the order passed by the learned single Judge.

6. The writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

**To**

1. The Government Secretary  
Backward Class &  
Most Backward Class,  
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Ezhillagam, Chepauk, Chennai.
3. The Joint Director,  
Kallar Reclamation,  
Madurai-20.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 67888  
+ 1 CC TO Mr.S.VIJAYAKUMAR, ADVOCATE IN SR No. 67370

SKM/ARUL

TE/SV-MMS/SAR-I : 04/08/2017 : 3P/6C

W.A(MD)No.987 of 2017 and  
C.M.P(MD).No.6720 of 2017  
24.07.2017