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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 19.06.2017

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P. (MD) .No.5302 of 2017

P.Kumar

...Petitioner

Vs.

1.The State of Tamil Nadu, Represented by the Secretary,
The Department of Municipal Administration and
Water Supply, Secretariat,
Chennai.

2.The Commissioner of Municipal Administration,
Office of the Commissioner of Municipal Administration,
Chepauk, Chennai - 5.

3.The Commissioner,
Paramakudi Municipality, Paramakudi,
Ramanathapuram District.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued to the petitioner by the 3rd respondent in Na.Ka.No.3282/2014/H1 dated 10.11.2014 and quash the same as illegal and consequently direct the 3rd respondent to regularize the petitioner's service as Sweeper on completion of 3 years period from the date of appointment dated 03.07.1998 as per G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.04.1997 with all consequential service and monetary benefits from 03.07.2001 to 15.03.2006.

For Petitioner

:Mr.R.R.Kannan

For R-1 and R-2

:Mr.J.Gunaseelan Muthaiah,
Government Advocate.

For R-3

:Mr.M.Kannan

O R D E R

This Writ Petition is filed for issuing a Writ of Certiorarified Mandamus, to quash the impugned order passed by the third respondent, in Na.Ka.No.3282/2014/H1, dated 10.11.2014, and to regularize the petitioner's service as Sweeper with effect from the date on which the petitioner completed three years from the date of his appointment.



2. Heard, Mr.R.R.Kannan, learned counsel appearing for the petitioner and Mr.J.Gunaseelan Muthaiah, learned Government Advocate appearing for the respondents 1 and 2 and Mr.M.Kannan, learned counsel appearing for the third respondent.

3. The petitioner stated that he was appointed as Sweeper on 03.07.1998. Though their services were regularized with effect from 16.03.2006, they prayed for regularization immediately upon completion of three years from the date of appointment. This representation of the petitioner was rejected by the third respondent by the impugned order, dated 10.11.2014. Challenging the same, the above Writ petition has been filed.

4. The learned counsel appearing for the petitioner referred to the Judgment of this Court, in a batch of cases in **W.P. (MD) Nos.1943, 2371 to 2374 and 2183 to 2196 of 2011, dated 23.09.2011**, wherein it has been held as follows:-

" 3. Accordingly, the Writ petitions are allowed with a direction to the respondents to regularise the services of these petitioners from the date of completion of three years from their original date of appointment. Such orders shall be passed by the respondents, within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous petitions are closed."

5. Further the learned counsel for the petitioner relied on the Judgment of this Court, **W.A. (MD) Nos.461 to 474 of 2013, dated 08.07.2013**, wherein, it is extracted as follows:-

" 6. As the Writ Appeals are filed on the basis of the applicability of the Government Order, as narrated above, we are of the considered view that in the light of the stand taken by the first respondents/Writ petitioners that they are restricting their claim to get the relief as per G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.04.1997, the grievance of the first respondents/Writ petitioners are met. Hence, the order of the learned Single Judge is modified with a direction to the appellant to regularize the services of the first respondents/Writ petitioners on completion of three years of service, in terms of G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.04.1997, with arrears of pay.



Necessary orders are directed to be passed by the appellant, after obtaining approval from the appropriate authority, within a period of three months from the date of receipt of a copy of this order."

6. The said Judgments were also confirmed by the Hon'ble Full Bench of this Court. The learned counsel for the petitioner also relied upon the Judgment of Hon'ble Full Bench of this Court, in **Rev. Aplc. (MD) No. 87 of 2014 in W.A. (MD) No. 729 of 2013, Rev. Appl. No. 223 of 2015 in W.P. (MD) No. 1083 of 2012 and W.A. (MD) No. 555 of 2010 and M.P. No. 1 of 2015 and Rev. Appl. No. 254 of 2015 in W.P. (MD) No. 1083 of 2012 and M.P. No. 1 of 2015, dated 30.04.2017.** The said Review Application was filed against the order of the Hon'ble Division Bench of this Court, which was also referred to again. Having regard to the facts narrated above and the Judgment produced by the learned counsel for the petitioner, this Court is of the view that the petitioner is entitled to entire service regularised with effect from the date on 02.07.2001, which is the date on which the petitioner completed three years in tune with the direction of this Court in the batch of Writ petitions.

7. The learned counsel appearing for the respondents did not object this stand taken by the petitioner and they also fairly considered the fact that the position as held by this Court in the Review Application before the Hon'ble Full Bench of this Court.

8. Hence, the Writ petition is allowed and the impugned order passed by the third respondent, in Na.Ka.No.3282/2014/H1, dated 10.11.2014, is set aside. The third respondent is directed to regularize the petitioner's service on completion of three years period from the date of appointment, i.e., 02.07.2001. The petitioner is also entitled to the consequential and also the monetary benefits and other service benefits as per law. This exercise shall be done by the third respondent within a period of eight weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous petition is closed. No costs.

sd/-

Assistant Registrar(Records)

/True copy/

Sub Assistant Registrar

To

1. The State of Tamil Nadu,
Represented by the Secretary,
The Department of Municipal Administration and Water Supply,
Secretariat,
Chennai.



2.The Commissioner of Municipal Administration,
Office of the Commissioner of Municipal Administration,
Chepauk,
Chennai - 5.

WEB COPY

3.The Commissioner,
Paramakudi Municipality,
Paramakudi,
Ramanathapuram District.

+1cc to Mr.RR.Kannan,Advocate,SR.60823

+1cc to M/S.Special Government Pleader,SR.60972

ORDER MADE IN
W.P. (MD) No..5302 of 2017
19.06.2017

PMU

KK/GT/SAR1/03.07.2017/4P-6C/