



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.7205 of 2016

and

W.M.P. (MD) No.6095 of 2016

WEB COPY

- 1.K.T.Durai Kannan,
- 2.A.Shanmugam,
- 3.R.Pandi,
- 4.V.Loganathan,
- 5.K.Balamurugan,
- 6.C.Prabhakaran,
- 7.S.Babu,
- 8.L.Veerapandia Sekaran,
- 9.J.Babu Jhon,
- 10.S.Murugan,
- 11.L.Muthukannan,
- 12.S.G.Dasthagir Basha,
- 13.M.Karuppiah,
- 14.M.Ravichandran,
- 15.A.Subramanian,
- 16.K.Ganashan

... Petitioners

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai - 600 009.
- 2.The Commissioner,
Corporation of Madurai,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issue a Writ of Mandamus, directing the respondents to extent the benefits of the order passed by this Hon'ble Court in W.P.No.1821 of 2009 dated 22.08.2014, and consequentially direct the respondent to appoint/regularize the services of the petitioners to the posts of Wireman/Helper in the 2nd respondent corporation with effect from their original date of appointment dated 06.01.1998 and to ensure equal pay to the petitioners in the scale of pay of Wireman/Helper with continuity of seniority and other attendant benefits.

For Petitioners : Mr.N.Mohideen Basha

<https://hcservices.ecourts.gov.in/hcservices/>

: Mr.N.S.Karthikeyan,
Additional Government Pleader

For R2

: Mr.R.Murali



ORDER

This Writ Petition has been filed by the petitioners for issuance of a Writ of Mandamus, to direct the respondents to extend the benefits of the order passed by this Hon'ble Court in W.P.No.1821 of 2009, dated 22.08.2014, and consequently to direct the respondents to appoint/regularize the services of the petitioners to the post of Wireman / Helper in the second respondent Corporation with effect from their original date of appointment dated 06.01.1998 and to ensure equal pay to the petitioners in the scale of pay of Wireman / Helper with continuity of seniority and other attendant benefits.

2.The case of the petitioners in brief, as stated by them in the Affidavit filed in support of the Writ Petition, are as follows:

2.1. The first respondent passed a Government Order vide G.O.Ms.No.151, dated 10.06.1997, creating various posts. Based on this Government order, 40 posts were filled by the second respondent as "Unskilled Workers" by proceedings dated 06.01.1998, through the employment exchange. Subsequently the first respondent passed a Government order vide G.O.Ms.No.113, dated 10.05.1999, to regularize the 40 persons including the petitioners herein, who were working under the second respondent Corporation.

2.2 The petitioners were regularized by the second respondent by an order dated 06.08.1999, as "Unskilled Workers" in a regular time scale of pay. Though the petitioners were working in the same post from 1998 and they were doing the job of Wireman / Helper, they were not appointed as Wireman / Helper.

2.3. Some contract labourers, who were working under the private contractors of TNEB as 'Unskilled Workers' from 2007, filed Writ Petition in W.P.No.1821 of 2009, challenging their non-employment. Though the petitioners are 9 years seniors to the petitioners in W.P.1821 of 2009, they were appointed as Helper pursuant to the direction of this Court allowing the Writ Petition on 22.08.2014. It is further submitted that the person appointed along with the petitioners were also regularized in the post of Wireman / Helper. The grievance of the petitioners is that the petitioners are fully qualified as Wireman / Helper and doing the same job for more than 17 years, their representations were pending for a long time and were not considered so far. Though earlier, the petitioners challenged the regularization of other workers, in a separate Writ Petition, they withdrew the Writ Petition with liberty to file fresh Writ Petition for regularization of their service in the post of Wireman / Helper. The present Writ Petition is therefore filed seeking to extend the benefits that was given to their juniors in W.P.1821 of 2009.



3.The learned Standing Counsel for the second respondent submitted that out of 16 Writ Petitioners, one of the petitioner namely L.Muthukannan, is no more and that the respondent Corporation can only accommodate 10 candidates. Hence the learned Counsel submitted that this Court may direct the respondents to appoint 10 out of the 15 Writ Petitioners herein. It was also undertaken by the respondents that the remaining five petitioners will be accommodated in due course as and when vacancy arises.

4.However, the learned Counsel for the petitioners pointed out that there are vacancies for all the 15 persons and produced the proceedings of the Commissioner of Madurai Corporation, dated 30.03.2017, by which six persons who are holding the post of Wireman were promoted to the next higher level. By this promotion, six more vacancies were created, in addition to the admitted 10 vacant positions, in the respondent Corporation for the post of Wireman. The fact that subsequent vacancies arose in the second respondent Corporation is fairly admitted by the learned Counsel for the respondents.

5.In the said circumstances, recording the submission of the learned counsel for the respondents, this Court is inclined to allow the Writ Petition with the following direction:

5.1.The respondents herein are directed to appoint/regularize the services of the petitioners in the post of Wireman / Helper in the second respondent Corporation with effect from their date of appointment i.e., 06.01.1998, and to give the same scale of pay applicable to the post of Wireman / Helper as it was given to the batch of workers who were recruited along with the petitioners on 06.01.1998, with continuity of service and seniority and other attendant benefits. The direction of this Court shall be complied within a period of eight weeks from the date of receipt of a copy of this order.

9. With the above directions, this Writ Petition is allowed. Consequently connected W.M.P.(MD) No.6095 of 2016 is closed. No costs.

Sd/-

Assistant Registrar(Records)

/ True Copy /

Sub Assistant Registrar(C.S.)

To

1.The Secretary,

<https://hcservices.courts.gov.in/hcservices/> State of Tamil Nadu,

Municipal Administration and Water Supply Department,
Fort St. George, Chennai - 600 009.



2.The Commissioner,
Corporation of Madurai,
Madurai.

+1 CC TO MR.R.MURALI, ADVOCATE, SR NO.58439

+1 CC TO MR.M.MOHIDEEN BASHA, ADVOCATE, SR NO.58427

cmr/gsp

MAS/KKR/SAR1:20.06.2017:4P-5C

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