

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.476 of 2015

and

M.P.No.1 of 2015

1.Secretary to the Government
Home (Police) Department
Fort St.George
Chennai 9.

2.The Director General of Police
Mylapore, Chennai.

3.The Commissioner of Police
Chennai City,
Egmore, Chennai.

.... Appellants

Vs

Pichai.

....Respondent

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order passed in W.P.No.18142 of 2013 and M.P.No.1 of 2013 dated 04.07.2013.

WP.No.18142 of 2013:Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus to call for the records of the 1st respondent in G.O.Ms. NO.653 dated 7.8.09 in so far it regularises the services of the petitioner herein prospectively and quash the same and consequently direct the respondents to regularize the services of the petitioner herein in the permanent post of sweeper with effect from his initial date of appointment by bringing him in the regular time scale of pay with all consequential and attendant service benefits in the light of the G.O.Ms. No.977 dated 12.10.2006

For Appellants : Mrs.A.Sri Jayanthi
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

The respondent was initially appointed as a part-time sweeper in the Police Department. He worked as a sweeper at the Armed Reserve Police Camp, Egmore. The services of the respondent was regularised by the Government pursuant to the Government Order in G.O.(Ms.)No.653, Home (Pol-XV) Department, dated 07 August, 2009. The respondent having found that under similar circumstances, two other part-time sweepers working at the Armed Reserve Unit, Salem were regularised retrospectively as per order in G.O.Ms.No.977, Home (Pol-XV) dated 12 October, 2006, filed a writ petition before the Writ Court in W.P.No.18142 of 2013 to quash the Government Order in G.O.(Ms.) No.653, Home (Pol-XV) Department, dated 07 August, 2009 and to regularise his services in the light of the order in G.O.Ms.No.977, Home (Pol-XV) dated 12 October, 2006. The learned Single Judge allowed the said writ petition. Feeling aggrieved, the State has come up with this intra court appeal.

2. We have heard the learned Special Government Pleader on behalf of the appellants. None appeared on behalf of the respondent.

3. The respondent was initially appointed as a part-time sweeper on 01 December 1984. He was working as a part-time sweeper in the Armed Reserve Police, Egmore, Chennai, when he was given regularisation. Similarly, the Police Department appointed part-time sweepers in all the other Armed Reserve Units. Thiru K.Kannan and Tmt. M.Parvathy, who were working as part-time sweepers in the Armed Reserve Unit, Salem filed Original Applications before the Tamil Nadu Administrative Tribunal seeking regularisation of their services from the date of their initial appointment. The Tribunal, by order dated 08 July 2003, directed the Government to regularise the services of those two employees. The Government considered the order passed by the Tamil Nadu Administrative Tribunal dated 08 July 2003 in O.A.Nos.4567 of 2000 and 1867 of 1998 and regularised their services by order in G.O.Ms.No.977, Home (Pol-XV) dated 12 October, 2006. Since the similarly situated part-time employees like the respondent failed to initiate legal proceedings, their services were not regularised. Subsequently, pursuant to the announcement made by the Hon'ble Chief Minister before the assembly during the financial year 2008-2009, the services of other part-time employees like the respondent were regularised by issuing the order in G.O.(Ms.)No.653, Home (Pol-XV) Department, dated 07 August, 2009.

4. The respondent filed the writ petition in W.P.No.18142 of 2013 primarily on the ground that he also should have been regularised with effect from the initial date of his appointment. The respondent was justified in the said contention on account of the order passed by the Government on 12 October, 2006 in the case of Thiru K.Kannan and Tmt. M.Parvathy. There is absolutely no distinguishing feature in the case of the beneficiaries of the Government Order in G.O.Ms.No.977, Home (Pol-XV) dated 12 October, 2006 and the respondent. All these employees were working as part-time sweepers. The Government cannot be heard to say that they would regularise the services of only those people who have come to the Court. These sub staff were all working as part-time sweepers. They were virtually at the mercy of the Government. It is true that two of the part-time sweepers approached the Tribunal and got orders. The respondent, admittedly, has not filed any Original Application and that should not cause prejudice to him.

5. The Government having taken a decision to regularise the services of two other part-time employees, ought to have extended the same benefit to all the other part-time employees who were similarly situated. However, no such indulgence was given to others. We are, therefore, of the view that the learned Single Judge was correct in directing the appellants to pass an order taking into account the order dated 12 October, 2006.

6. We direct the appellants to extend the benefit of the Government Order in G.O.Ms.No.977, Home (Pol-XV) dated 12 October, 2006 to the respondent, as he is similarly situated. Such exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this judgment. We make it clear that the respondent would not be entitled to the back wages for the period in question and his entitlement is only for counting the said period for all other purposes.

The intra court appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gms

To

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+1 cc to the Govt Pleader sr 10628

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