

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.884 of 2014

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

1.A.Sundari
2.S.Subbulakshmi
3.Saraswathi

... Respondents

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act, to set aside the order passed in W.P.No.15231 of 2013 dated 6.6.2013.

W.P.No.15231 of 2013:

Writ Petitions filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorified Mandamus To call for the records of the 1st respondent in G.O.Ms. No.653 dated 7.8.2009 in so far it regularizes the services of the petitioners herein prospectively and quash the same and consequently direct the respondents to regularize the services of the petitioners herein, in the permanent post of Sweeper with effect from their initial dates of appointments by bringing them 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 : Mr.V.Anandhamoorthy,
Additional Government Pleader

for respondents: Mr.V.Prakash, Senior counsel
for Mr.M.Suresh

J U D G M E N T

(delivered by K.K.SASIDHARAN, J.)

The respondents were initially appointed as part-time sweepers in the Police Department. The respondents 1 and 2 were appointed on 10 June 1988 and the third respondent was appointed on 10 May 1990. Their services were regularised by the Government pursuant to the Government Order in G.O. (Ms.)No.653, Home (Pol-XV) Department, dated 7 August, 2009. The respondents 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.15231/2013 to quash the Government Order in G.O. (Ms.) No. 653, Home (Pol-XV) Department, dated 7 August, 2009 and to regularise their 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 Additional Government Pleader on behalf of the appellants. We have also heard the learned senior counsel on behalf of the respondents.

3. The respondents were initially appointed as part-time sweepers. Their services were utilized for the purpose of cleaning mobile toilets, floors etc. wherever large number of police personnel were deputed for bandobast and other duties. The Police Department appointed part-time sweepers in all the 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 8 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 similarly situated part-time employees like the respondents 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 respondents were regularised by issuing the order in G.O.(Ms.)No.653, Home (Pol-XV) Department, dated 07 August, 2009.

4. The respondents filed the writ petition in W.P.No.15231 of 2013 on the ground that they also should have been regularised with effect from the initial date of their appointment. The respondents were 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 respondents. 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 approached the Court of law. 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 respondents, admittedly, have not filed any Original Application and that should not cause prejudice to them.

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. Similar issue came up before a Division Bench of which one of us was a party (K.K.S., J.) in W.A.No.476 of 2015. The Writ Petition filed by the State was dismissed and a direction was given to 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 respondents therein. The respondents herein are also similarly situated.

6. We therefore 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 respondents, as they are 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 respondents would not be entitled to the back wages for the period in question and their entitlement is only for counting the said period for all other purposes.

7. The intra court appeal is dismissed. No costs. Consequently, M.P.No.1 of 2014 is also dismissed.

Sd/-

Assistant Registrar(CS IX)

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To

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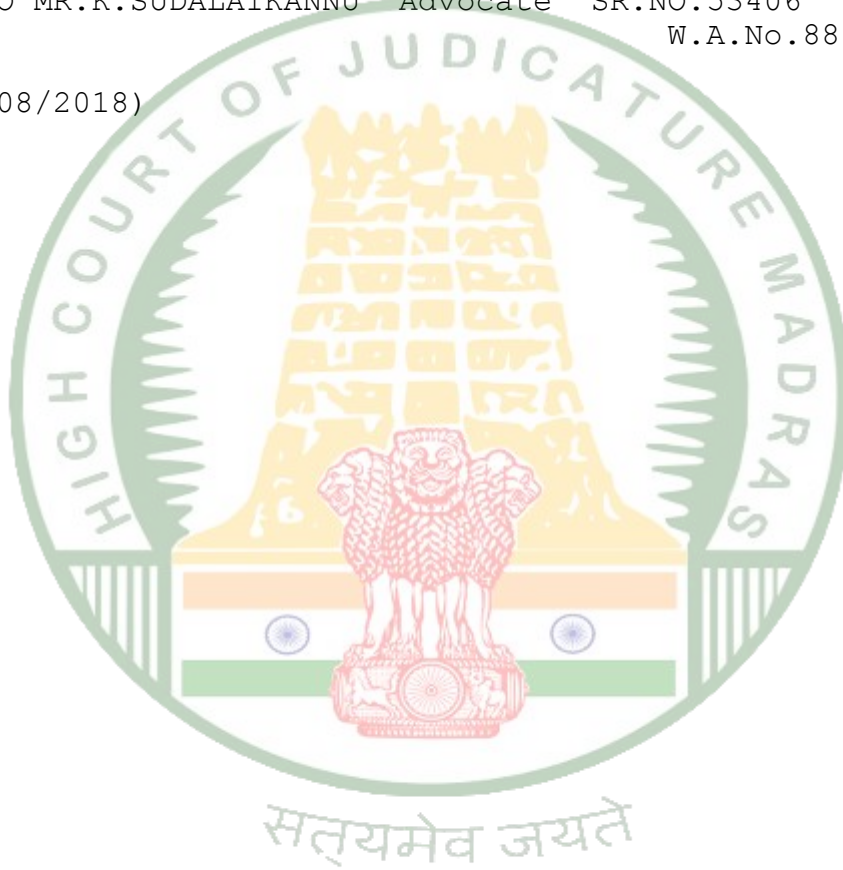
+1 CC TO THE GOVERNMENT PLEADER SR.NO. 54118

+1 CC TO MR.K.SUDALAIKANNU Advocate SR.NO.53406

W.A.No.884 of 2014

SS(CO)

ASK(30/08/2018)



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