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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.9.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.2186 of 2018
and
C.M.P.No.16944 of 2018

- 1 The Government of Tamil Nadu
rep.by its Secretary
Municipal Admn. & Water Supply
(T.P) Department
Fort St. George Chennai - 600 009.
- 2 The Director of Town Panchayats
Kuralagam Building Chennai - 600 108.
- 3 The Assistant Director of Town
Panchayats Nagercoil Region
Kanyakumari District.
- 4 The Executive Officer
Vellimalai Town Panchayat
Ammandivilai Post,
Kanyakumari District.

Appellants

Vs

T.Thangappan

Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 12.6.2017 passed in W.P.No.14540 of 2017 on the file of this court.

WP.No. 14540 of 2017 Prayer: Writ of Mandamus or any other Writ directing the Respondents 2 and 3 to create one post of driver for one vehicle the vehicle purchased by the 4th respondent town panchayat for removal of garbage based on the proposal submitted by the 4th respondent in his proceedings Na.Ka. No.39/2014/ A1 dated 12.2.2014 and Na.Ka. No.39/ A1/ 2014 dated 3.1.2017 in terms of G.O.Ms. No.37 Municipal Administration and Water Supply Department (T.P dated 1.2.2011 so as enable the petitioner to get time scale pay from 7.1.2013 after adjusting the consolidated pay paid to the petitioner.



For appellants : Mr.P.S.Sivashanmugasundaram
Special Government Pleader
For respondent : Mr.P.Ebenezer Paul

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JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned special Government Pleader appearing for the appellants and Mr.P.Ebenezer Paul, who takes notice on behalf of the respondent.

2. The writ appeal has been filed by the State challenging the order passed by the learned Single Judge in directing the appellants to create one post of Driver for one vehicle.

3. In a similar case, viz., W.A.Nos.587 of 2018, etc., this court, by judgment dated 26.3.2018, had observed as under:-

"The order passed by the learned Single Judge is to the effect that since already a proposal has been forwarded by the fourth respondent therein, one post of Driver for one vehicle has to be created so as to regularize the services of the writ petitioners. So far as the direction is concerned, it appears that it is totally uncalled for because of the fact that nature of appointment has not been examined and it is only contractual in nature. Moreover, a mandamus cannot be issued in case of appointment and to regularization of services. However, the authorities may consider, if they find that it so warrants and do the needful in accordance with law. The order passed by the learned Single Judge is modified with the above observation and the writ appeals are disposed of."

4. Therefore, the present writ appeal is also disposed of in the above terms. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

ssk.



To:

1 The Secretary,
The Government of Tamil Nadu,
Municipal Admn. & Water Supply
(T.P) Department
Fort St. George Chennai - 600 009.

2 The Director of Town Panchayats
Kuralagam Building Chennai - 600 108.

3 The Assistant Director of Town
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Vellimalai Town Panchayat
Ammandivilai Post,
Kanyakumari District.

+1cc to the Government Pleader, S.R.No. 66659

W.A.No.2186 of 2018

RK(CO)
GN(02/11/2018)