

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.3.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.Nos.587, 287, 313, 389 and 605 of 2018
and
C.M.P.Nos.5707, 2181, 2544, 3285 and 5873 of 2018

W.A.No.587 of 2018

- 1 The Government of Tamilnadu
rep. by its Secretary Municipal Admn. &
Water Supply (TP) Dept. 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
Kappiyarai Town Panchayat
Kappiyarai Post Kanyakumari District.
- Appellants

Versus

A.Alexander

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 5.6.2017 passed in W.P.No.13735 of 2017 on the file of this court.

Writ Petition under Article 226 of the Constitution of India seeking a Writ of Mandamus 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 to his proceedings Na.Ka. No.218/ 2013/ A1 dated 20.1.2014 and Na. Ka. No.151/2016 dated 5.1.2017 from the date of the issue 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 1.2.2011 after adjusting the consolidated pay paid to the petitioner

W.A.No.287 of 2018

- 1 The Government of Tamilnadu
rep. by its Secretary Municipal Admn. &
Water Supply (T.P) Dept Fort St. George
Chennai - 600 009.
- 2 The Director of Town Panchayat
Kuralagam Building Chennai - 600 108.
- 3 The Assistant Director of Town Panchayats
Nagercoil Region Kanyakumari District.
- 4 The Executive Officer
Keezhzkulam Town Panchayat
Thengapattinam Post Kanyakumari Disrict.

Vs

M.Vinish Kumar
Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 06.06.2017 made in W.P.No.14003 of 2017 on the file of this court.

Writ Petition under Article 226 of the Constitution of India seeking a Writ of Mandamus 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.36 / 2014 / A1 dated 07.02.2014 from the date of the issue of G.O. Ms No.37 Municipal Administration and Water Supply Department (T.P dated 01.02.2011 so as enable the petitioner to get time scale pay from 01.02.2011 after adjusting the consolidated pay paid to the petitioner

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W.A.No.313 of 2018

- 1 The Government of Tamilnadu
rep. by its Secretary Municipal Admn. &
Water Supply (T.P) Dept Fort St. George
Chennai - 600 009.

- 2 The Director of Town Panchayat
Kuralagam Building Chennai - 600 108.
 - 3 The Assistant Director of Town Panchayats
Nagercoil Region Kanyakumari District.
 - 4 The Executive Officer
Nallur Town Panchayat,
Marthandham Post, Kanyakumari District.
- Appellants

Vs

P.Ebu Suresh Paul

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 15.06.2017 made in W.P.No.15002 of 2017 on the file of this court.

WP.No.15002 of 2017:Writ Petition under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus 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. 134/ 2013 dated 23.12.2013 and Na.Ka.No. 145/ 2016/ A1 dated 23.01.2017 from the date of the issue 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 10.02.2011 after adjusting the consolidated pay paid to the petitioner

W.A.No.389 of 2018

- 1 The Government of Tamilnadu
rep. by its Secretary Municipal Admn. &
Water Supply (T.P) Dept Fort St. George
Chennai - 600 009.
- 2 The Director of Town Panchayat
Kuralagam Building Chennai - 600 108.
- 3 The Assistant Director of Town Panchayats
Nagercoil Region Kanyakumari District.

4 The Executive Officer
Palapallam Town Panchayat,
Karungal Post, Kanyakumar District.

Appellants

Vs

B.Sridharan

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 12.06.2017 made in W.P.No.14541 of 2017 on the file of this court.

WP.No.14541 of 2017:Writ Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, 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.341/ 2013/ A1 dated 4.1.2014 from the date of the issue 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 1.2.2011 after adjusting the consolidated pay paid to the petitioner

W.A.No.605 of 2018

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

Appellants

Vs

C.Jayakumar

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 19.06.2017 made in W.P.No.15345 of 2017 on the file of this court.

WP.NO.15345 of 2017:Writ Petition under Article 226 of the constitution of India seeking a Writ of Mandamus 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.23/ 2014/ A1 dated 7.2.2014 and Na.Ka. No.536/ 2016/ A1 dated 23.1.2017 from the date of the issue 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 1.2.2011 after adjusting the consolidated pay paid to the petitioner.

For appellants : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

For respondents : Mr.V.Krishnamurthy for
Mr.P.Ebenezer Paul

COMMON JUDGMENT

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

Heard the learned Special Government Pleader appearing for the appellants and Mr.V.Krishnamurthy, learned counsel, who takes notice on behalf of the respondents.

2. The writ appeals have been filed by the State challenging the correctness of the order passed by the learned Single Judge in giving a direction to the appellants to create one post.

3. Though notice was issued and the respondent is represented by a counsel, so far, no counter is filed. 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. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssk.

To:

- 1 The Government of Tamilnadu
rep. by its Secretary Municipal Admn. &
Water Supply (TP) Dept. 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
Kappiyarai Town Panchayat
Kappiyarai Post Kanyakumari District.
- 5 The Executive Officer
Keezhzkulam Town Panchayat
Thengapattinam Post Kanyakumari District.
- 6 The Executive Officer
Nallur Town Panchayat,
Marthandham Post, Kanyakumari District.
- 7 The Executive Officer
Palapallam Town Panchayat,
Karungal Post, Kanyakumar District.
- 8 The Executive Officer
Vilavoor Town Panchayat,
Mulagumoodu Post, Kanyakumari District.

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22690,22691,22692

W.A.Nos.587, 287, 313,
389 & 605 of 2018

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