



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.513 of 2018

and

W.M.P. (MD) .No.508 of 2018

M.Jeya

...Petitioner

Vs.

1.The Director of Town Panchayats,
Kuralagam Buildings 4th Floor,
Chennai-600 018.

2.The District Collector,
Theni, Theni District.

3.The Director of Local Fund Audit,
Finance Department Offices Complex,
Behind Veterinary Hospital,
Nandanam, Chennai.

4.The Regional Assistant Director of Town Panchayats,
Palanichettipatti Post,
Theni District.

5.The Executive Officer,
Selection Grade Town Panchayats,
Pannaipuram Post,
Uthamapalayam Taluk,
Theni District.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1, 4 & 5 to regularize service of the petitioner's husband Late.A.Mookaiah with effect from 25.05.2001 and bring him to regular time scale of pay in the post of Sweeper with effect from 25.05.2001 and consequently directing the third respondent to pay the family pension benefits with effect from 02.09.2003 in the light of the Full Bench judgment in Secretary to Government, Municipal Administration and Water Supply Department, Fort St.George, Chennai-2 Vs. V.Marisamy reported in 2017 (3) CTC 673 by considering the petitioner's representation dated 27.11.2017 within the period that may be stipulated by this Court.



For Petitioner

: Mr.K.Ponniah

For Ajmal Associates

For Respondents

: Mr.M.Jeyakumar for R1 to R4
Additional Government Pleader

: Mr.M.Rajarajan for R5

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ORDER

Heard the learned counsel on either side.

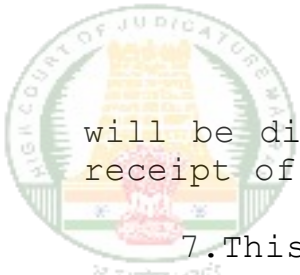
2.By consent of both parties, the main Writ Petition itself is taken up for final disposal.

3.The petitioner is the wife of one Mookaiah. He was appointed as Sweeper in the office of the fifth respondent on 25.05.1998. He passed away on 02.09.2003. Even during his service, proposals were sent on 11.03.2002 for regularizing his service.

4.As pointed out by the learned Additional Government Pleader appearing for the respondents No.1 to 4 vide letter dated 29.07.2002, the regularization of his temporary service in Town Panchayat was put on hold in view of the citing financial conditions. But on account of his subsequent demise, his services did not get regularized.

5.The learned counsel appearing for the petitioner placed reliance on the Full Bench decision of this Court reported in 2017 (3) CTC 673 (*Secretary to Government, Municipal Administration and Water Supply Department Vs. V.Marisamy*) dated 30.05.2017. As per the said Full Bench decision the persons employed as sanitary workers covered by G.O.(Ms).No.101, Municipal Administration and Water Supply Department, dated 30.04.1997 and G.O.(MS).NO.71, Municipal Administration and Water Supply Department, dated 05.05.1998, are entitled to be regularized after the completion of the respective period under consolidated pay as specified in the Government orders from the date of their initial appointment. In fact in paragraph 28, the Hon'ble Full Bench observed that the right to be considered for regularization on completion of the mandatory period had already accrued. The only condition is that the service must have been without blemish. It was held that subsequent Government Orders cannot take away accrued rights. Likewise, the subsequent death of the employee will also not result in effacing the accrued right. In this case as already seen the proposals were submitted by the fourth respondent to the first respondent for such regularization.

6.Therefore, the respondents 1, 4 and 5 are directed to pass appropriate orders for regularizing the services of the petitioner's husband A.Mookaiah with effect from 25.05.2001. The benefits payable to the petitioner on account of such regularizing



will be disbursed within a period of eight weeks from the date of receipt of a copy of this order.

7. This Writ Petition stands allowed accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Director of Town Panchayats,
Kuralagam Buildings 4th Floor,
Chennai-600 018.

2. The District Collector,
Theni, Theni District.

3. The Director of Local Fund Audit,
Finance Department Offices Complex,
Behind Veterinary Hospital,
Nandanam, Chennai.

4. The Regional Assistant Director of Town Panchayats,
Palanichettipatti Post,
Theni District.

+1cc to Mr.M.Rajarajan, Advocate, SR.No. 47772

+1cc to M/S.AJMAL ASSOCIATES, Advocate, SR.No.47700

+1cc to M/s.Special Government Pleader, SR.No. 48635

W.P. (MD) .No.513 of 2018
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KK/RSK/03.05.2018/SAR-2/3P-8C