



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.09.2018

CORAM:

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**THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR**

W.A.[MD].Nos.1239 to 1245 of 2018

S.Murugaiyan	: Appellant in W.A.(MD).No.1239 of 2018
K.Mohandhas	: Appellant in W.A.(MD).No.1240 of 2018
M.Nagarajan	: Appellant in W.A.(MD).No.1241 of 2018
T.Palanikumar	: Appellant in W.A.(MD).No.1242 of 2018
M.Baskaran	: Appellant in W.A.(MD).No.1243 of 2018
S.Velu	: Appellant in W.A.(MD).No.1244 of 2018
A.Ganesan	: Appellant in W.A.(MD).No.1245 of 2018

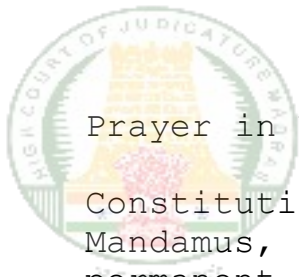
Vs.

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort.St.George, Chennai 600 009.
2. The Commissioner of Municipal Administration and Water Supply,
Ezhilagam, Chepauk, Chennai 600 005.
3. The Paramakudi Municipality,
Rep by the Commissioner,
4/387, Gandhiji Road,
Paramakudi 623 707,
Ramanathapuram District. : Respondents in all Writ Appeals

PRAYER: Writ Appeals are filed under Clause 15 of the Letters Patent against the order dated 22.02.2018 made in W.P.(MD). No.10244, 10245, 10248, 10249, 10252, 10258 and 10259 of 2013, on the file of this Court.

Prayer in WP(MD). 10244/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to appoint the petitioner on permanent basis on 27.05.1999 on consolidated basis for one year and after the said period of one year service to place the petitioner on time scale of pay with all consequential benefits.



Prayer in WP(MD). 10245/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to appoint the petitioner on permanent basis on 27.05.1999 on consolidated basis for one year and after the said period of one year service to place the petitioner on time scale of pay with all consequential benefits.

Prayer in WP(MD). 10248/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to appoint the petitioner on permanent basis on 27.05.1999 on consolidated basis for one year and after the said period of one year service to place the petitioner on time scale of pay with all consequential benefits.

Prayer in WP(MD). 10249/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to appoint the petitioner on permanent basis on 27.05.1999 on consolidated basis for one year and after the said period of one year service to place the petitioner on time scale of pay with all consequential benefits.

Prayer in WP(MD). 10252/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to appoint the petitioner on permanent basis on 27.05.1999 on consolidated basis for one year and after the said period of one year service to place the petitioner on time scale of pay with all consequential benefits.

Prayer in WP(MD). 10258/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to appoint the petitioner on permanent basis on 27.05.1999 on consolidated basis for one year and after the said period of one year service to place the petitioner on time scale of pay with all consequential benefits.

Prayer in WP(MD). 10259/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to appoint the petitioner on permanent basis on 27.05.1999 on consolidated basis for one year and after the said period of one year service to place the petitioner on time scale of pay with all consequential benefits.

**COMMON JUDGMENT**

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

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Taking note of the fact that the issues involved in all the Writ Appeals are common, they have been taken up together and the Writ Appeals are disposed of by means of this Common Judgment.

2. Admittedly, all these appellants have been appointed as daily wage employees. Taking into consideration of their plight, an order was passed by the Government in G.O.(Ms).No.21, Municipal Administration and Water Supply [MC.3] Department, dated 23.02.2006, regularizing their services, subject to possession of the educational qualification and availability of sanctioned posts. Therefore, these appellants have been regularized in service from the date of issuance of the said Government Order. Contending that their services should be regularized from the date of their initial appointment, the appellants have filed the above Writ Petitions. The learned Single Judge has dismissed all the Writ Petitions holding that the initial appointment of the appellants itself was wrong and what was given to them by way of the Government Order, referred to supra, was only a concession. Challenging the said order, the present Writ Appeals have been filed.

3. The learned counsel appearing for the appellants would submit that the finding of the learned Single Judge with respect to the initial appointment was wrong, since these appellants were appointed pursuant to the employment exchange seniority. Therefore, the order passed by the learned Single Judge needs interference.

4. Though we concur with the submission made by the learned counsel appearing for the appellants that they have been appointed through the employment exchange seniority, the fact remains that they were appointed on consolidated pay as daily wage employees. In other words, the appellants were not appointed in permanent vacancies. Exactly, that is the reason why, the Government Order, referred to supra, came to be passed by way of concession. This order is also a qualified one making it clear that it is subject to the other qualifications. Therefore, the appellants, as a matter of right, cannot seek that the services rendered by them either as NMR or through the consolidated pay will have to be reckoned as date of regularization. To be noted, neither the Government Order issued in G.O.(Ms).No.21, Municipal Administration and Water Supply [MC.3] Department, dated 23.02.2006, has been put into challenge nor the implementation of the same. Thus, we do not find any reason to interfere with the



order passed by the learned Single Judge.

5. In the result, the Writ Appeals are dismissed. No costs.

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Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort.St.George, Chennai 600 009.
2. The Commissioner of Municipal Administration and Water Supply,
Ezhilagam, Chempauk, Chennai 600 005.
3. The Commissioner,
Paramakudi Municipality,
4/387, Gandhiji Road,
Paramakudi 623 707,
Ramanathapuram District.

+ 7 CC TO Mr.ANANTH C.RAJESH, ADVOCATE IN SR No. 84620 to 84626
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 85195

NB

TE/PM/SAR-2 : 01/10/2018 : 4P/12C

COMMON JUDGMENT MADE IN
W.A.[MD].Nos.1239 to 1245 of 2018
17.09.2018