

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 26.02.2018

CORAM:

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THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P. (MD) No.15877 of 2013

- 1.Pandiammal
- 2.Dhanalakshmi
- 3.K.Sarasu
- 4.P.Susila

... Petitioners

Vs.

1. The Commissioner,
Corporation of Madurai,
Madurai-625 002.
2. The Regional Director,
Municipal Administration,
Madurai.

3. The Commissioner of Municipal Administration,
Chepauk, Chennai-600 005.

... Respondents

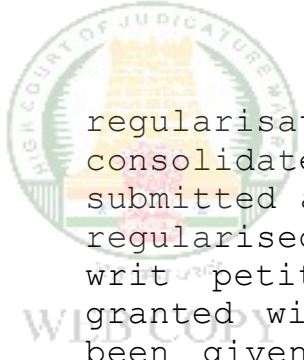
Prayer: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to regularise the services of the petitioners on and from following the date on completion of three years of service of the respective petitioners and to pay the monetary benefits.

For Petitioners	: Mr.K.C.Ramalingam
For 1 st Respondent	: Mr.R.Murali
For Respondents 2 & 3	: Ms.VPM.Vaishnavi
	Government Advocate

ORDER

The relief sought for in this writ petition is for a direction to direct the respondents to regularise the services of the petitioners on and from following the date on completion of three years of service of the respective petitioners and to pay the monetary benefits such.

2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioners were initially appointed as sanitary workers on consolidated pay in the year 1999. The petitioners were continuing as consolidated pay employees and the Government had taken a policy decision to grant



regularisation in respect of temporary employees appointed as consolidated pay. Pursuant to the Government order a proposal was submitted and accordingly the services of the writ petitioner were regularised in proceedings dated 31.10.2006. The grievances of the writ petitioners are that the benefit of regularisation was granted with effect from 31.10.2006 and the same ought to have been given with effect from the date on which they completed three years of services on temporary basis.

3.The learned counsel appearing on behalf of the first respondent states that already the services of the writ petitioners were regularised in proceedings dated 31.10.2006 and they are working as permanent employee in the regular time scale of pay. However, the present writ petition was filed on 18.09.2013 after the lapse of 7 years from the date of regularisation order thus the writ petition is highly belated and this apart the benefit of regularisation was already granted to the writ petitioners and therefore, the writ petition deserves to be rejected.

4.The learned Government advocate appearing on behalf of the respondents two and three states that the Government has granted benefit of regularisation to all the temporary employees and based on the Government orders, the services of the writ petitioners were already regularised and therefore they cannot seek further relief in this writ petition.

5.This is court is of an opinion that the initial appointment of the writ petitioners were on consolidated pay as temporary employees. The initial appointment of the writ petitioners were not in accordance with the recruitment rules in force. Thus, the appointment of the writ petitioners were irregular. However, the Government has taken a decision to grant a benefit of regularisation to all the temporary employees and accordingly, the services of the writ petitioners were regularised in proceedings dated 31.10.2006 and they were brought under the regular establishment in the time scale of pay. The regularisation and permanent absorption granted in favour of the writ petitioners itself is a concession. Therefore, the concession cannot be granted with retrospective effect, when the irregular appointment is regularised. This Court is of an opinion that the regularisation itself cannot be granted, in view of the judgment of the constitution bench of the Honourable Supreme Court of India. However, the fact remains that the services of the writ petitioners were regularised in proceedings dated 31.10.2006 itself . pursuant to the one time exemption granted by the constitution bench of the supreme court of India reported in Para 53 of the judgment in the case of **the Secretary, State of Karnataka and others .vs. Umadevi (3) and others reported in (2006)**



6.This being factum of the case, this court is of the opinion that the writ petitioners cannot claim that their services ought to have been regularised with retrospective effect then the initial appointment was irregular the benefit of regularisation itself is a concession under those circumstances such concession cannot be extended so as to provide with retrospective regularisation from the year 1999. Under these circumstances, this Court is of the opinion that the writ petitioners have not established any right for retrospective regularisation with effect from the date of completion of three years of the temporary services. This apart the benefit of regularisation was granted in the year 2006 and the present writ petition is filed after a lapse of 7 years from the date of regularisation itself. Thus the writ petition is liable to be rejected on the ground of laches also in this view of the matter, the writ petition is devoid of merits and the same stands dismissed, both on merits and on the ground of laches. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To;

1.The Regional Director,
Municipal Administration,
Madurai.

2.The Commissioner of Municipal Administration,
Chepauk, Chennai-600 005.

+ 1 cc TO Mr.K.C.Ramalingam , Advocate in SR No. 51460
+ 1 cc TO Mr.R.Murali , Advocate in SR No. 51381
+ 1 cc TO The Special Government Pleader in SR No. 51647

vsg

AE/SV MMS/SAR1/21.03.2018/3P/6C

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