

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.24234 of 2013

R.Rani

... Petitioner

vs.

1.The Secretary to the Government of Tamil Nadu,  
Municipal Administration and Water Supply  
Department, Fort St. George,  
Chennai 600 009.

2.The Commissioner of Municipal Administration,  
Department of Municipal Administration and  
Water Supply, Chepauk,  
Chennai 600 005.

3.The Commissioner,  
O/o.The Commissioner,  
Rasipuram Municipality,  
Namakkal District.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified mandamus, calling for the records pertaining to the impugned order passed by the 3<sup>rd</sup> Respondent in his proceedings vide Na.Ka.No.659/H1/06, dated 01.03.2006 and quash the same and consequently direct the Respondents to regularize the services of the Petitioner's husband by bringing him into regular scale of pay with effect from March 2004 as provided under G.O.(Ms) No.199, dated 12.08.1997 with all consequential and attendant benefits and pay the same to the petitioner.

For Petitioner : Mr.S.Periasamy

For Respondents : Mr.P.S.Sivashanmugasundaram,  
Special Government Pleader

O R D E R

Petitioner has come up with the present Writ Petition seeking to quash the impugned order dated 01.03.2006 passed by

the 3<sup>rd</sup> Respondent in his proceedings vide Na.Ka.No.659/H1/06, and for a consequential direction to the Respondents to regularize the services of her husband by bringing him into regular scale of pay with effect from March 2004 as provided under G.O.(Ms) No.199, dated 12.08.1997 with all consequential and attendant benefits and pay the same to her.

2. According to the Petitioner, as per the norms prescribed in G.O.(Ms) No.199 Municipal Administration and Water Supply Department, dated 12.08.1997, her husband was appointed as a Sanitary Worker by the 2<sup>nd</sup> Respondent on 28.02.2001 vide proceedings in Na.Ka.No.H.1/2133/2000 on the consolidated pay of Rs.2000/- as per G.O.Ms.No.125, dated 27.05.1999 issued by the 1<sup>st</sup> Respondent. It is further stated by the Petitioner that the 3<sup>rd</sup> Respondent issued an order on 01.03.2006 vide proceedings in Na.Ka.No.659/H1/06 based on G.O.Ms.No.21, dated 23.02.2006 issued by the 1<sup>st</sup> Respondent, stating that her husband was brought under regular scale of pay with effect from 23.02.2006. Unfortunately, before claiming the regular scale of pay after the completion of three years, i.e. from the year 2004, the Petitioner's husband died due to illness on 24.08.2006, while he was in service. Hence, as a legal heir, the Petitioner has come up with the present Writ Petition seeking the above relief.

3. It is the contention of the learned counsel for the Petitioner that it is not open to the Respondents to deprive the Petitioner, her husband's benefits under G.O.Ms.No.199, dated 12.08.1997, as this Court had directed the Government to regularize the services of such sanitary workers pursuant to G.O.Ms.No.199, dated 12.08.1997 and bring them in regular scale of pay. He further pointed out that the order of ban which was imposed by the Government in the year 2001 was with reference to filling up of vacancies and does not apply to regularization of employees appointed earlier. Hence, according to the learned counsel, reliance placed on G.O.Ms.No.21 to plead that regularization is being made only after the ban is lifted, is incorrect and contrary to the directions of the Tribunal and cannot affect the rights vested with the Petitioner's husband's regularization of service in accordance with G.O.Ms.No.199 from the year 2004 onwards.

4. In a similar circumstance, this Court, by an order dated 18.09.2009 in W.P.No.30956 of 2008, had directed the Respondents to bring the Petitioners therein under time scale of pay with effect from the date on which they have completed three years of service from the date of appointment on consolidated pay.

5. It is seen that the Petitioner's husband joined the services of the 2<sup>nd</sup> Respondent after the issuance of G.O.Ms.No.199, dated 12.08.1997 and died in the year 2006 after G.O.Ms.No.21, dated 23.02.2006 was issued. Since the Petitioner's husband completed three years of service in the year 2004, he is entitled to all the terminal benefits on and from the date of completion of three years of service, i.e. regularization of service, based on G.O.Ms.No.21, dated 23.02.2006.

6. In view of the foregoing, this Court holds that the service of the Petitioner's husband is deemed to have been regularized on and from the date of completion of three years from the date of entry into service i.e. from 28.02.2001 and that the Petitioner would be entitled to all the terminal benefits due to her husband, however, she is not entitled to revision of pay or other benefits till the date of regularization of her husband's service.

7. Terminal benefits shall be calculated notionally from the date of demise of the Petitioner's husband and the amount due shall be paid to the Petitioner together with arrears of Pension, within a period of 45 days from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction and observation. No costs. Consequently, connected M.P.No.1 of 2013 is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1.The Secretary to the Government of Tamil Nadu,  
Municipal Administration and Water Supply  
Department, Fort St. George,  
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2.The Commissioner of Municipal Administration,  
Department of Municipal Administration and  
Water Supply, Chepauk,  
Chennai 600 005.

3.The Commissioner,  
O/o.The Commissioner,  
Rasipuram Municipality,  
Namakkal District.

+1cc to Mr.S.Periasamy Advocate, S.R.No. 63793  
+1cc to the Government Pleader, S.R.No.64211

SPD (CO)  
CB (04/09/2019)

W.P.No.24234 of 2013



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