

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.03.2019
Coram

The Hon'ble Mr.Justice D. KRISHNAKUMAR

Writ Petition No. 24849 of 2014
&
M.P.No.1 of 2014

D.Maridass

...Petitioner

Vs.

- 1.Principal Secretary to Government,
Municipal Administration and Water Supplies
Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Town Panchayat,
Kuralagam Buildings,
Chennai - 600 108.
- 3.The Commissioner, Municipal Administration,
Chepauk,
Chennai - 600 005.
- 4.The District Collector,
Kancheepuram District.
- 5.The President,
Kelambakkam Panchayat,
Kancheepuram District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus to direct the respondents herein to bring the petitioner into time-scale of pay by regularizing their services taking into account their original date of appointment, in the light of G.O.Ms.No.199 Municipal Administration and Water Supplies Department dated 12.08.1997 and G.O.Ms.No.84 Municipal Administration and Water Supplies Department dated 21.05.1998 and Judgment of the Division Bench of this Court passed in W.A.No.47 and 385/2010 dated 23.06.2010, with all consequential service and monetary benefits, within a time frame.

For Petitioner	: Mr.N.Gnanalingam
For Respondents 1 to 4	: Mr.B.Anand Government Advocate
For Respondent 5	: R.Ravichandran

ORDER

This writ petition has been filed by the petitioner seeking a direction to the respondents herein to bring the petitioner into time-scale of pay by regularizing his service, by taking into account of his original date of appointment, in the light of G.O.Ms.No.199 Municipal Administration and Water Supplies Department dated 12.08.1997 and G.O.Ms.No.84 Municipal Administration and Water Supplies Department dated 21.05.1998 and Judgment of the Division Bench of this Court passed in W.A.No.47 and 385/2010 dated 23.06.2010, with all consequential service and monetary benefits.

2. According to the petitioner, he joined the Government services as Sanitary Worker/Sweeper in the year 2001 and subsequently, he was promoted as Sanitary Supervisor by the 5th respondent and rendered more than 13 years of loyal service. The petitioner is being paid a meagre monthly salary of Rs.3,200/- without even taking into account the minimum wages fixed by the District Collector from time to time on daily wages basis. The Government of Tamil Nadu through G.O.Ms.No.199, Municipal Administration and Water Supply Department dated 12.08.1997 and G.O.Ms.No.84 Municipal Administration and Water Supply Department dated 21.05.1998 have directed the 1st respondent to bring the consolidated pay of sweepers to the regular time scale from the date, on which, they have completed three years of satisfactory service. Some of the employees has filed writ petition viz., W.P.No.13455 of 2013 before this Court and this Court has directed the second respondent to regularize the service of the consolidated pay to the sweepers working in Kannakurichi Town Panchayat, Salem Region from the date, on which, they completed three years term in the category of consolidated pay. Challenging the aforesaid final order, the executive officer preferred the writ appeal in W.A.No.385 of 2010. By Judgment dated 23.06.2010, this Court dismissed the writ appeal by confirming the order of learned Single Judge. Challenging the said dismissal, SLPs were preferred by the executive officers and the said SLPs were also dismissed by the Hon'ble Supreme Court on 27.09.2010. According to the petitioner, he is also entitled for consolidated pay as granted in the aforesaid order. Though this writ petition is of the year 2014, till today the respondents has not chosen to file any counter in this writ petition.

3. The order made in W.P.No.13455 of 2013 dated 04.06.2013, wherein this Court has held as follows:

" 4. As per G.O.Ms.No.199 Municipal Administration and Water Supply Department, dated 12.08.1997, the service of the consolidated pay sweepers was to be brought into regular time scale of pay from the date on whichh they completed three years of service. But the petitioners were not brought under regular time scale of pay. Hence, they made a representation dated 13.02.2013 to the respondents, to grant them scale of pay as per G.O.Ms.No.199 dated 12.08.1997. Since no order is passed, the petitioners have filed the present writ petition, seeking to grant them scale of pay as per G.O.Ms.No.199 Municipal Administration and Water Supplies Department dated 12.08.1997 and G.O.Ms.No.84 Municipal Administration and Water Supplies Department dated 21.05.1998 and also in terms of the Judgment of the Division Bench of this Court passed in W.A.Nos.47 and 385 of 2010 dated 23.06.2010 with all consequential service and monetary benefits.

5. In identical matter, the First Bench of this Court confirmed the order of a learned Single Judge, granting scale of pay to the petitioners therein on completion of three years of service. Paragraphs 2 to 4 of the said order may be usefully extracted hereunder:-

"2.The short facts leading to the filing of these appeals are stated hereunder:

The petitioners in both the writ petitions were appointed as Sweepers/Sanitary workers by the concerned Town Panchayats, on a consolidated pay of Rs.900/- with effect from 27.03.1998 and 30.04.1998 respectively. They joined duty on different dates in the year 1998. As per the Government orders, dated 17.08.1999, on completion of three years of service on consolidated pay, they should have been brought under the time scale of pay with effect from the date when they completed three years. But by means of the orders impugned in the writ petitions, they were brought under the time scale of pay only they were brought under the time scale of pay only with effect from 23.02.2006 in so far as W.A.No.47 of 2010 is concerned and

with effect from 23.06.2006 in so far as W.A.No.385 of 2010 is concerned. The said orders were challenged in the writ petitions.

3.The learned Single Judge, on the basis of the judgment rendered by a Division Bench of this Court in W.A.No.1454 of 2007, dated 19.12.2008 in the case of Director of Town Panchayat, Kuralagam, Chennai and two others -vs- R.Sundaradas, allowed the writ petitions and held that the writ petitioners are entitled to the time scale of pay only from the date when they completed three years on consolidated pay and not from any subsequent date. Aggrieved by the same, the respective panchayats have filed the above appeals.

4.We have perused the judgment, dated 19.12.2008 rendered by the Division Bench of this Court in the aforementioned appeal. In our view, as rightly held by the learned Single Judge, the present cases are squarely covered by the said Division Bench judgment. We do not find any reason to differ with the view taken by the learned Single Judge. There being no merit in the appeals, they stand dismissed. Consequently, the connected miscellaneous petitions are also dismissed. However, there will be no order as to costs."

6. Aggrieved by the dismissal, the Executive Officer preferred SLP before the Apex Court and the same was also dismissed.

7. I am of the view that the petitioners are entitled to be brought under the time scale of pay from the date when they completed three years of service on consolidated pay, as per G.O.Ms.No.199 Municipal Administration and Water Supplies Department dated 12.08.1997 and G.O.Ms.No.84 Municipal Administration and Water Supplies Department dated 21.05.1998 and in terms of the Judgment of the Division Bench of this Honourable Court passed in W.A.No.47 and 385 of 2010 dated 23.06.2010 with all consequential service and monetary benefits."

4. In the light of the above said order in W.P.No.13455 of 2013 dated 04.06.2013, the petitioner is directed to make a representation to the first respondent, within a period of two weeks, from the date of receipt of a copy of this Order. On

receipt of such representation from the petitioner, the first respondent is directed to consider the same and pass order in accordance with law as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of such representation.

5. With the above directions, the writ petition is disposed of. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

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To

- 1.The Principal Secretary to Government,
Municipal Administration and Water Supplies
Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Town Panchayat,
Kuralagam Buildings,
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- 5.The President,
Kelambakkam Panchayat,
Kancheepuram District.

+1cc to Government Pleader SR.No.22662

W.P. No. 24849 of 2014 &
M.P.No.1 of 2014

MG (CO)
GMY (09/04/2019)