

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.Nos.17538, 18076, 18077, 18479 and 18858 of 2017
and
W.M.P.Nos.19035, 19622, 19623, 20052 and 20380 of 2017

S.Suresh ...Petitioner
in W.P.No.17538 of 2017
R.Saravanan ...Petitioner
in W.P.No.18076 of 2017
M.Periyasamy ...Petitioner
in W.P.No.18077 of 2017
T.Anbalagan ...Petitioner
in W.P.No.18479 of 2017
M.Senthil Kumar ...Petitioner
in W.P.No.18858 of 2017

Vs

- 1.The Government of Tamil Nadu,
Rep. by its Secretary,
Municipal Admn. & Water Supply (T.P.) Dept.,
Fort St George, Chennai - 600 009.
- 2.The Director of Town Panchayats,
Kuralagam Building, Chennai - 600 108.
- 3.The Assistant Director of Town Panchayats,
Nagercoil Region, KK District.
..3rd respondent in W.P.No.17538/2017
- 4.The Executive Officer,
Selection Grade Town Panchayat,
Kaliyakavilai,
Kaliyakavilai Post, KK District.
..4th respondent in W.P.No.17538/2017
- 5.The Assistant Director of Town Panchayats,
Udagamandalam, Nilgiris District.
..3rd respondent in W.P.No.18076
18077, 18479, 18858/2017

6.The Executive Officer,
Jegathala Town Panchayat,
Aruvankadu Post,
Nilgiris District.

..4th respondent in W.P.No.18076/2017

7.The Executive Officer,
Deversholai Town Panchayat,
Devarsholai Post,
Nilgiris District.

..4th respondent in W.P.No.18077/2017

8.The Executive Officer,
Ovalley Town Panchayat,
New Hope Post,
Nilgiris District-643 226.

..4th respondent in W.P.No.18479/2017

9.The Executive Officer,
Selection Grade Town Panchayat,
Hulical and Post,
Nilgiris District-643 226.

..4th respondent in W.P.No.18858/2017

Writ Petitions filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus, directing the 2nd and 3rd respondents to create one post of driver for one vehicle, the vehicle purchased by the 4th respondent town panchayat for removal of garbage based on the proposal submitted by the 4th respondent in (i) proceedings Na Ka No.718/2016/A1 dated 28.12.2016; (ii) proceedings Na Ka No.599/2013 dated 10.12.2013 and 426/2016 dated 13.10.2016, (iii) proceedings Na Ka No.524/2016 dated 13.10.2016; (iv) proceedings Na Ka No.297/2012 dated 11.11.2013 and 297/2012 dated 28.09.2016 and (v) proceedings Na Ka No.1324/2013 dated 12.12.2013 and 1324/2013 dated 29.09.2016 respectively, from the date of the issue of G.O.Ms.No.37 Municipal Administration and Water Supply Department (T.P dated 01.02.2011) so as enable the petitioner to get time scale pay from 01.02.2011 after adjusting the consolidated pay paid to the petitioner.

For Petitioner : Mr.P.Ebenezer Paul
in all W.Ps.

For Respondents : Mr.D.Suriya Narayanan,
in all W.Ps. Additional Government Pleader
for R1 to R4

COMMON ORDER

The prayer in these writ petitions is as follows:

To issue Writ of Mandamus, directing the 2nd and 3rd respondents to create one post of driver for one vehicle, the vehicle purchased by the 4th respondent Town panchayat for removal of garbage based on the proposal submitted by the 4th respondent in (i) proceedings Na Ka No.718/2016/A1 dated 28.12.2016; (ii) proceedings Na Ka No.599/2013 dated 10.12.2013 and 426/2016 dated 13.10.2016, (iii) proceedings Na Ka No.524/2016 dated 13.10.2016; (iv) proceedings Na Ka No.297/2012 dated 11.11.2013 and 297/2012 dated 28.09.2016 and (v) proceedings Na Ka No.1324/2013 dated 12.12.2013 and 1324/2013 dated 29.09.2016 respectively, from the date of the issue of G.O.Ms.No.37 Municipal Administration and Water Supply Department (T.P dated 01.02.2011) so as enable the petitioners to get time scale pay from 01.02.2011 after adjusting the consolidated pay paid to the petitioners.

2. It is submitted by both sides that the issued involved in these writ petitions is covered by an order passed by the Division Bench of this Court in W.A.No.587/2018 etc. dated 26.03.2018, wherein the Division Bench of this Court has observed at paragraph No.3 as follows:

3. Though notice was issued and the respondent is represented by a counsel, so far, no counter is filed. The order passed by the learned Single Judge is to the effect that since already a proposal has been forwarded by the fourth respondent therein, one post of Driver for one vehicle has to be created so as to regularize the services of the writ petitioners. So far as the direction is concerned, it appears that it is totally uncalled for because of the fact that nature of appointment has not been examined and it is only contractual in nature. Moreover, a mandamus cannot be issued in case of appointment and to regularization of services. However, the authorities may consider, if they find that it so warrants and do the needful in accordance with law. The order passed by the learned Single Judge is modified with the above observation and the writ appeals are disposed of. No costs. The connected miscellaneous petitions are closed.

3. Mr.Ebinesar Paul, learned counsel appearing for the petitioners and the learned Additional Government pleader appearing for the respondents submitted that the same order can

be passed in these matters also, since the issue is one and the same.

4. Considering the above stated facts and circumstances and in view of the order passed by the Division Bench of this Court in similar matter, these Writ Petitions are disposed of with an observation that the authorities may consider, if they find that creation of post of driver is so warranted and do the needful in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

gsi/vsi

To

- 1.The Secretary,
Government of TamilNadu,
Municipal Admn. & Water Supply (T.P.) Dept.,
Fort St George, Chennai - 600 009.
- 2.The Director of Town Panchayats,
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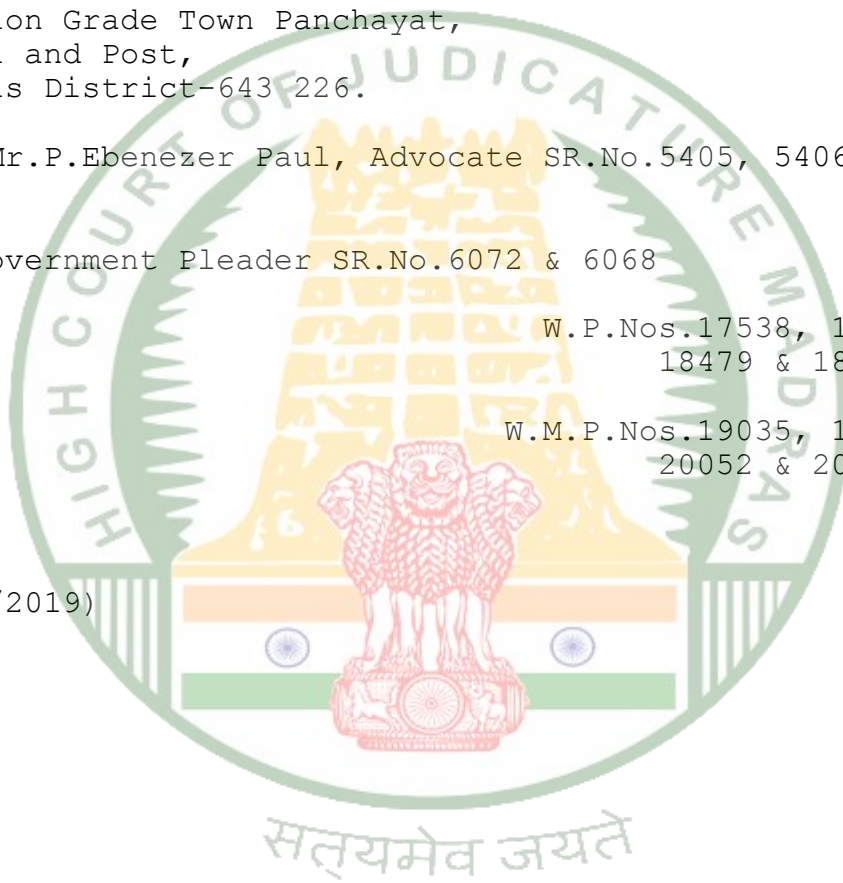
+5ccs to Mr.P.Ebenezer Paul, Advocate SR.No.5405, 5406, 5407,
5408,5409

+1cc to Government Pleader SR.No.6072 & 6068

W.P.Nos.17538, 18076, 18077
18479 & 18858 of 2017

and
W.M.P.Nos.19035, 19622, 19623
20052 & 20380 of 2017

PA(CO)
GMY(18/02/2019)



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