



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

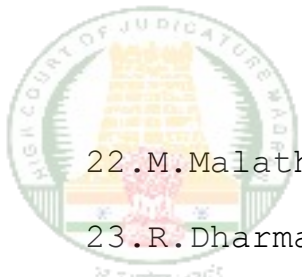
W.P. (MD) No.12843 of 2013

and

M.P. (MD) Nos.2 & 3 of 2013

WEB COPY

- 1.P.Mottaiyan
- 2.M.Rajammal
- 3.C.Selvaraj
- 4.A.Ponnusamy
- 5.G.Mariappan
- 6.G.Pechiappan
- 7.S.Thirumalai
- 8.S.Ganesan
- 9.K.Marivel
- 10.R.Palani
- 11.M.Pappa
- 12.N.Velammal
- 13.A.Muniraj
- 14.P.Madasami
- 15.C.Krishnan
- 16.M.Lakshmanan
- 17.C.Sekar
- 18.M.Perumal
- 19.C.Rajasekaran
- 20.V.Moorthy
- 21.S.Leelavathi



22.M.Malathi

23.R.Dharmathal

24.S.Pavunuthai

25.Samuthiram

26.P.Lakshmi

27.M.Deivanai

28.S.Kaliyammal

29.K.Mahuthannan

... Petitioners

vs.

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

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

3.The Commissioner
Puliangudi Municipality
Thirunelveli District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned proceeding issued by the 3rd Respondent in Na.Ka.No. H1/5622/2000 dated 16.03.2006 and quash the same and to direct the first and second respondents to pass appropriate orders on the proposal of the 3rd respondent in Na.Ka.No.5622/2000/A2 dated 09.01.2002 to sanction the time scale of pay to the petitioners with effect from 31.01.2002 within a reasonable period as may be fixed by this Court.

For Petitioner : Mr.T.Ranganathan

For Respondents : Mr.D.Muruganandham

Additional Government Pleader for R1 & R2

No appearance for R3

O R D E R

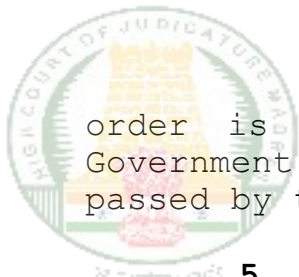
The order dated 16.03.2006, passed by the third respondent, is sought to be quashed in the present writ petition.
<https://hcservices.ecodrts.gov.in/hcservices/>



2. The impugned order states that 29 persons were engaged as Sanitary Workers, under the consolidated pay salary. The Government issued an order in G.O.(Ms) No.21, Municipal Administration and Water Supply Department, dated 23.02.2006, stating that the Sanitary Workers engaged as consolidated pay employees can be brought under the regular time scale of pay. Pursuant to the said Government Order, the benefit of time scale of pay was granted to all these writ petitioners with effect from 23.02.2006, in the impugned proceedings dated 16.03.2006.

3. The claim of the writ petitioners is that the time scale of pay ought to have been provided with effect from their initial date of appointment as consolidated pay employees. The writ petitioners were engaged as daily wage employees in the year 1998. Subsequently, consolidated pay salary was paid and the time scale of pay was granted with effect from 23.02.2006, through the proceedings dated 16.03.2006.

4. The initial appointments of the writ petitioners were not made in accordance with the recruitment rules in force. The initial appointments of the writ petitioners as daily wage employees and subsequently, as consolidated pay employees were not made in accordance with the recruitment rules in force and their appointments were irregular. In spite of the fact that their initial appointments were irregular, the Government has considered the case of the writ petitioners for permanent absorption and accordingly, passed an order in G.O.(Ms) No.21, Municipal Administration and Water Supply Department, dated 23.02.2006, and the writ petitioners were conferred with the benefits of regularization and permanent absorption. Grant of regularization in respect of the irregular appointees itself is a concession. The irregular appointments cannot be legalized. All irregular and illegal appointments are to be dealt with in accordance with the legal principles settled by the Constitution Bench of the Honourable Supreme Court of India in the case of **the Secretary, State of Karnataka and others vs. Umadevi and others**, reported in (2006) 4 SCC 1. However, the Government took a policy decision as one time measure to grant the benefit of regularization to all these employees and accordingly, they were brought under the regular establishment and provided with the time scale of pay with effect from 23.02.2006. Thus, the claim of the writ petitioners for grant of retrospective time scale of pay from the date on which they were initially appointed as daily wage employees and subsequently, as consolidated pay employees cannot be granted and the writ petitioners as of now are working as regular employees in the time scale of pay. This being the factum, the grant of retrospective time scale of pay or regularization is directly in violation of the legal principles settled by the Constitution Bench of the Honourable Supreme Court in the case cited supra and therefore, the impugned



order is in consonance with the policy decision taken by the Government and there is no infirmity as such in the impugned order passed by the third respondent.

5. Further, the impugned order was issued in the year 2006 and the writ petition was filed in the year 2013, after a lapse of seven years from the date of passing of the impugned order granting regularization. Thus, the writ petition is highly belated.

6. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To:

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

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

+1 CC to SPL GP SR-81936.

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and

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