

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.913 of 2020

T.Renganathan

.. Appellant

-vs-

1. The Secretary to Government,
M.A. & W.S. Department,
State of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2. The Commissioner,
Corporation of Coimbatore,
Coimbatore.

.. Respondents

Prayer:- Appeal filed under Clause 15 of the Letters Patent against the order dated 18.02.2020 passed in W.P.No.23587 of 2013 on the file of this Court.

Prayer in W.P.23587/2013:- This writ petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other appropriate writ or order or direction in the nature of writ to call for the records relating to 2nd respondent's proceedings Na.Ka.No.6825/2001/Mc3 dated 25.07.2006 and quash the same in so far as the regularisation of the service of the petitioner is concerned from 23.02.2006 and consequently direct the respondents to regularise the service of the petitioner in times scale of the pay after completion of 10years service from the date of his initial appointment made pursuant to and in accordance with G.O.Ms.No.1644 RDLA Department dated 12.10.1979, as well as G.O.Ms.No.258 MA and WS Department dated 15.03.1988 with all attendant benefits.

For Appellant

: Mr.M. Muthappan

For 1st respondent

: Mr.V.Jayaprakash Narayanan
State Government Pleader

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

We have heard Mr.M. Muthappan, learned counsel for the appellant, who contends that the writ petition being not entertained on the ground of delay of 8 years, is not justified when similarly situate persons have been extended the benefit of regularisation on competition of ten years of service from a prior date. For this, facts have been stated and we find that the learned Single Judge has declined the relief on the ground that the appellant was granted the benefit of regularisation on 25.07.2006. The said order reads as under:-

"Proceedings of the Commissioner of Coimbatore Corporation

Present:Thiru.P.Muthuveeran M.Sc

R.C.No.6825/2001/M.C.3

Date:25.07.2006

Sub: Establishment-Coimbatore Corporation
Regularisation of 13 daily wages workers and workers on consolidated Pay and fixation of time scale of pay - orders - issued.

Ref:1.G.O.Ms.No.21 MAWS dt.23.2.2006

2.Govt.Letter No.18617/Corporations 4/2004-8 MAWS dt.5.4.2006

3.Circular No.35845/2004/MCA2 of the Commissioner for Municipal Administration dt.20.4.2006.

4.This office Lr.Bo.6825/2001/MC3/dt.26.5.2006 to the Commissioner of Municipality Administration.

5.Letter No.35845/2004/MCA2 of the Commissioner of Municipal Administration dt.26.6.2006.

6. Resolution No.3 dt.19.7.2006 of the Appointment Committee

ORDER

In accordance with the G.O.Ms.No.21 MAWS dt.23.2.2006 and clarifications issued by the Commissioner of Municipal Administration in the references 3rd and sixth cited and the Resolution of the appointment committee in the reference 6th cited the services of the following 13 daily wage workers and workers on consolidated pay is regularise w.e.f.23.3.2006 and appointed as N.M.Rs on time scale of pay of Rs.2550-55-2660-60-3200.

Sl. No.	Name of the Workers	Educational Qualification	Date of Entry into service	Zone in which appointed
1	Thiru.B Kumar	DCE (civil)	25.10.1996	West

Sl. No.	Name of the Workers	Educational Qualification	Date of Entry into service	Zone in which appointed
2	Thiru.M. Thiagarajan	DCE (civil)	01.02.1996	East
3	Tmt.A. Angalina	DCE (civil)	13.06.1996	North
4	Thiru.T. Ranganathan	Old SSLC (1971)	18.01.1979	South
5.	Thiru.A. Gopal	8 th Standard	31.06.1995	North
6.	Thiru.V. Subbiah		31.06.1995	North
7.	Thiru.V. Sekar	8 th Standard	31.06.1995	North
8.	Thiru.P. Shanmugam	8 th Standard	31.05.1995	North
9.	Thiru.A. Noordden	6 th Standard	31.05.1995	North
10	Thiru.N. Thangavelu	9 th Standard	07.01.1992	South
11	Thiru.E. Jothilingam	4 th Standard	18.04.1995	Srivani W.S
12	Thiru,N, Soundararajan	6 th Standard	05.10.1994	East

All the above persons shall submit a medical certificate from a Registered Medical Practitioner at the time of heir joining in the Zonal Offices and also to submit their educational certificate to the Assistant Commissioner and scrutiny.

The workers are instructed to join immediately. The joining report shall be forwarded to the Central Office immediately failing which their appointment will be cancelled)

Sd/-
Commissioner
Coimbatore Municipality

To
The individuals concerned

2. A perusal of the same indicates that after citing of the period of service, the appellant, whose name finds place in Sl.No.4 in the Tabular Chart, has been extended the benefit of regularisation with effect form 23.02.2006.

3. The appellant, therefore, very well knew about the date from which the benefit of regularisation was extended to him.

4. We can therefore infer that the appellant inspite of having knowledge of the benefit of regularisation being curtailed only with effect from 23.02.2006 did not choose to challenge the said order and rather waited for more than 7 years to file the writ petition giving rise to the present writ appeal, almost on the verge of his retirement.

5. There is nothing on record to indicate that any effort was made on the part of the appellant during this period to question the correctness of the date of regularisation till he made the representation in the year 2013.

6. Learned counsel for the appellant, however, submits that as a matter of fact the claim of the appellant right from 1989 onwards had been on the same pedestal that has been extended to the employees of other departments, and some employees of the same department itself. Thus, it was a continuing benefit and the acceptance of the regularisation does not in any way eclipse the right of the appellant to claim the benefit of regularisation from a prior date. In this regard, the contention on merits deserved to be considered by the learned Single Judge.

7. He further submits that reliance placed by learned Single Judge on the judgment of the Apex Court referred to in paragraph 9 of the impugned judgment does not in any way impede the claim of the appellant inasmuch as the appellant has been regularised in service in accordance with Rule. It is not the case of the respondents that the appellant is deficient on any ground so as to render him unqualified or ineligible.

8. Having considered the submissions raised, we find that there is no valid explanation for having represented the matter as late as in the year 2013 and then arrived before this Court by filing a writ petition after almost seven years of the regularisation order.

9. The conclusion on this issue therefore by the learned Single Judge does not suffer from any infirmity and refusal to exercise discretion cannot be said to be unwarranted.

10. However, the refusal to exercise the discretion by the High Court may not prevent the appellant from seeking any relief from the Government and therefore, it will be open to the appellant to seek such relief as may be admissible by approaching the authorities on the administrative side, as

further judicial review in the matter does not appear to be permissible.

11. The writ appeal is consigned to records. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sr
To

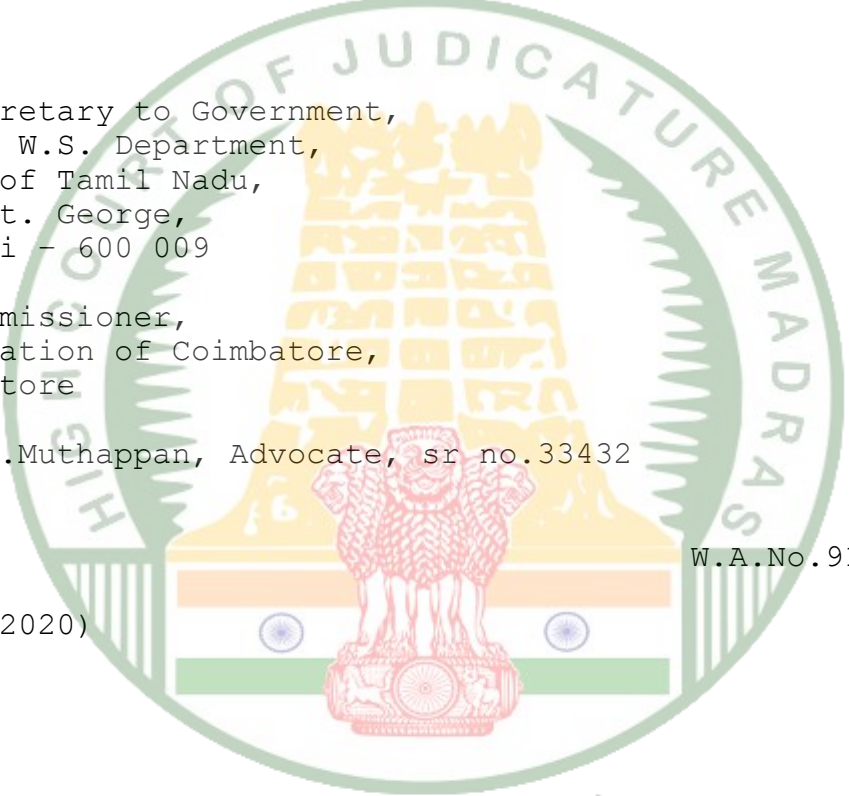
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Coimbatore

+1cc to Mr.Muthappan, Advocate, sr no.33432

SSV(CO)
RMP (03/12/2020)

W.A.No.913 of 2020



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