

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :10.01.2020

Coram

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.22206 of 2017 and
W.M.P.No. 23231 of 2017

1. K.Vasudevan
 2. M.Sithra
 3. R.Djeandy
 4. D.Dhanalakshmi
- ... Petitioners

Vs.

1. The Union of India,
Rep. by the Chief Secretary to Government,
Government of Puducherry, Puducherry.
 2. The Secretary to Government,
Local Administration Department,
Government of Puducherry, Puducherry.
 3. The Director,
Local Administration Department,
Government of Puducherry,
Puducherry.
 4. Puducherry Municipality,
Rep. by its Commissioner, Puducherry.
 5. The Under Secretary to Government (LA),
Government of Puducherry,
Puducherry.
- ... Respondents

Prayer: This writ petition has been filed under Article 226 of the Constitution of India to issue a Writ, order or direction more specifically a writ of certiorarified mandamus calling for the records on the file of the 5th respondent relating to the impugned order in G.O.Ms.No.47/LAS/A3(i) 2015 dated 04.12.2015 and quash the same in as much as it grants regularization to the petitioners only with effect from 04.12.2015 and to the post of Peon in the Grade Pay of Rs.1800 and consequently direct the respondents to regularize the petitioners as Bill Collectors Gr.II in the scale of pay of Rs.5200-20200 + Grade Pay of Rs.2000/- with effect from 30.07.2015 with all backwages, monetary benefits, seniority and all other service benefits in accordance with law.

For Petitioner : Ms.Gopika Nambiyar
for M/s Kamalakumar and R.Saravanan

For Respondents: Mrs. G.Djeaarany
(Gov. Adv. Puducherry)
(for R1 to R5)

O R D E R

This petition has been filed challenging the order passed by the 5th respondent in G.O.Ms.No.47/LAS/A3(i) 2015 dated 04.12.2015 and quash the same in as much as it grants regularization to the petitioners only with effect from 04.12.2015 and to the post of Peon in the Grade Pay of Rs.1800 and consequently direct the respondents to regularize the petitioners as Bill Collectors Gr.II in the scale of pay of Rs.5200-20200 + Grade Pay of Rs.2000/- with effect from 30.07.2015 with all back wages, monetary benefits.

2. The brief case of the writ petitioner is as follows.

The petitioners 1 to 3 were appointed as full time casual labourers in the fourth respondent Municipality on daily rated basis with effect from 01.02.2005, while the 4th petitioner was appointed with effect from 20.04.2005 and they are discharging duties as Bill Collectors. The duties and responsibilities of them are computerisation of the entire revenue unit including collection, processing, issuance of bills and all other related works and they are solely responsible for the functioning of the entire revenue unit.

2.1 While that being so, the Government of Puducherry for regularising the daily rated casual labourers working in the various departments and public sector units, issued an order in G.O.Ms.No.20 dated 06.02.2009. Consequently, another G.O.Ms.No.2/LAS/2011 dated 27.05.2011 was framed in respect of the local administration department alone. Though the petitioners were seniors, many of the juniors to the petitioners posts were regularised and they were appointed as Work Inspector, Auto Mechanic, Electrician, Bill Collector Grade-II, etc. Since the petitioners were working in the Revenue Department, their services were not regularized by the 4th respondent.

2.2. Thereafter, the 4th respondent regularised the service of the petitioners and appointed as Peon on 04.12.2015 with a condition that the order of appointment will be revised as per the outcome of the writ petition No.28841 of 2015. Though it is clearly held in the decision rendered in W.P.No.28841 of 2015 dated 04.10.2016 that there is nothing

wrong with the separate scheme meant for the Municipalities and regularising them in the appropriate posts, the petitioners are kept as Peons in the same grade pay of Rs.1800/- while all the other juniors are given the regularization in the higher grade pay of Rs.2,800/-, 2400/-, 2,000 and 1900 as per their qualifications.

2.3. The petitioners are well qualified and they are fully experienced and trained in handling the softwares and all other computerization in respect of revenue units. Though the petitioners are appointed as Peons, they are actually performing the duties of collection of revenue, which is equivalent to that of the Data Entry Operator in the grade pay of Rs.2800/- and the Bill Clerk in the Grade pay of Rs.2000/-.

2.4. The petitioners made several representations individually and collectively including representations dated 27.07.2016, 08.08.2016, 05.04.2017, 28.04.2017, 02.08.2017 and 07.08.2017 to consider them for the post of Bill Collector-II, in the event of filling up existing vacancy. However, there is no positive remedies. In such circumstances, the respondents are proceeding to fill up the vacancies in the posts of Bill Collectors by their communication dated 03.08.2017, thereby omitting to revise the regularization of the petitioners in accordance with the orders passed in the writ petition. Hence, this writ petition has been filed.

3. The learned counsel appearing for the writ petitioners submitted that the petitioners have filed this writ petition to quash the order passed by the 5th respondent in G.O.Ms.No.47/LAS/A3(i) 2015 dated 04.12.2015 in as much as it grants regularization to the petitioners only with effect from 04.12.2015 and to the post of Peon in the Grade Pay of Rs.1800/- and consequently direct the respondents to regularize the petitioners as Bill Collectors Grade-II in the scale of pay of Rs.5200-20200 + Grade Pay of Rs.2000/- with effect from 30.07.2015 with all back wages, monetary benefits. However, the Revenue Officer of the Department had sent a proposal dated 05.08.2019 to the 4th respondent recommending the petitioners for promotion in the vacancy post of Bill Collector-Grade-II. He further submitted that in view of the above said recommendation made by the Revenue Officer to the 4th respondent, it is suffice for the 4th respondent to consider the representations made by the writ petitioners and pass appropriate orders.

4. The learned Government Advocate submitted that if any representation made by the writ petitioners is kept pending, by taking note of the afore said facts, the 4th respondent will consider the same in accordance with law.

5. By recording the submission made by the learned Government Advocate, this court is inclined to pass the following order.

" The 4th respondent is directed to consider the representation made by the writ petitioners dated 07.08.2017 on merits in accordance with law, within a period of 12 weeks from the date of receipt of the copy of this order. It is needless to say that the writ petitioners shall furnish the copy of the representation along with the recommendation made by the revenue officers."

6. With the above direction, this writ petition is disposed of. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Chief Secretary to Government,
The Union of India,
Government of Puducherry, Puducherry.
- 2.The Secretary to Government,
Local Administration Department,
Government of Puducherry, Puducherry.
- 3.The Director,
Local Administration Department,
Government of Puducherry,
Puducherry.
- 4.The Commissioner,
Puducherry Municipality,
Puducherry.
- 5.The Under Secretary to Government (LA),
Government of Puducherry,
Puducherry.

+1cc to Mr.R.Saravanan, Advocate Sr.2822

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W.M.P.No. 23231 of 2017

SR(CO)
CB(28/02/2020)