



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **23.01.2020**

CORAM

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P (MD)No.16289 of 2014

G.Muniyandi

.. Petitioner

Vs.

1.The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai-9.

2.The Commissioner of Municipal,
Administration and Water Supply Department,
Chepauk, Chennai-5.

3.The Commissioner,
Bodinayakkanur Municipality,
Bodinayakkanur.

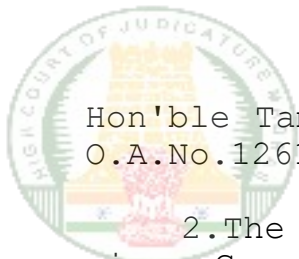
.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order dated 24.12.2013 passed by the third respondent in Na.Ka.No.1028/2013/C1 and quash the same and consequently, directing the respondents to regularize the petitioner's service with all monetary and attendant benefits in pursuant to the order of the Hon'ble Tamil Nadu Administrative Tribunal dated 24.03.2004 made in O.A.No.1261 of 2004 within a time stipulated by this Court.

For Petitioner	: Mr.J.Parekhkumar
For R1 and R2	: Mr.D.Muruganantham Additional Government Pleader
For R3	: Mr.M.Karuppasamy Government Advocate

ORDER

This writ petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order dated 24.12.2013 passed by the third respondent in Na.Ka.No.1028/2013/C1, quash the same and consequently, directing the respondents to regularize the petitioner's service with all monetary and attendant benefits in pursuant to the order of the



Hon'ble Tamil Nadu Administrative Tribunal dated 24.03.2004 made in O.A.No.1261 of 2004.

2.The case of the petitioner is that the petitioner's father viz., Guruvan, who worked as a Gang Coolie in the third respondent Municipality, died in harness, while he was in service. Therefore, the petitioner has been appointed as Gang coolie temporarily on compassionate ground on basic pay of Rs.14/- with allowance and he was assigned to do the regular work in a particular field. Though the petitioner was appointed as Gang Coolie in a Sanctioned Post on compassionate ground, he was not paid regular time scale of pay even after a lapse of 10 years. After completion of his probation, he was paid wages only as a temporary worker. Already a proposal was sent to the second respondent by the third respondent in this regard. Though the petitioner approached the respondents several times by way of oral and written representations, he was not paid regular time scale of pay. The third respondent is the appointing authority to do the same and simply replied that the proposal has been sent to the second respondent.

3.In the mean time, the petitioner had filed an Original Application before the Tamil Nadu Administrative Tribunal, Chennai, in O.A.No.1261 of 2004 for regularization of his service. The said O.A was allowed directing the first respondent to pass orders on the appointment of the petitioner by considering the proposal and also directed if any valid reason, the applicant's service cannot be regularized and the respondent is also directed to communicate the same to the applicant. Against the above said order, no appeal or review has been filed. In order to comply with the order of the Tribunal, the State Government has given exemption in respect of the petitioner under G.O.Ms.No.478, Municipal Administration and Water Supply Department, dated 10.09.2004, as there was a ban for making appointment and regularization under G.O.No.212, P&AR Department, dated 29.11.2001. The third respondent has complied with a part of the Tribunal's order by accommodating the petitioner in the post of Sweeper on regular time scale of pay, but failed to regularize the service of the petitioner, who has appointed on compassionate grounds for the period from 19.06.1989 to 19.09.2004. In this regard, the petitioner has made several representations. Finally, the petitioner has made a representation on 21.11.2013 to the respondents to regularize his service with all monetary benefits as per the order of the Tribunal dated 24.03.2004 passed in O.A.No.1261 of 2004. Under such circumstances, without considering the case of the petitioner, the third respondent has rejected the claim of the petitioner vide impugned order dated 24.12.2013 stating that as per G.O.Ms.No.212 P & AR Department dated 29.11.2001, the order of the Tribunal and G.O.Ms.No.478 Municipal Administration and Water Supply Department, dated 10.09.2004, the petitioner was put in regular time sale of pay and therefore, the past service of the petitioner for the period from 19.06.1989 to 19.09.2004 cannot be regularized.

<https://hccsreports.wb.in/cse> the present writ petition has been filed.



4.The learned Government Advocate appearing for the third respondent submitted that as per the order of the Tribunal, the first respondent has passed the Government Order in G.O.Ms.No.478, dated 10.09.2004 and appointed the petitioner as Sanitary Worker in the respondent Municipality by relaxing the G.O.Ms.No.212, dated 29.11.2001. Pursuant to the order of the first respondent, the petitioner was appointed as Sanitary Worker. Therefore, the respondent has complied with the order passed by the Tribunal and if the petitioner has got any grievance, he has to challenge the order passed by the respondent. As of now, the petitioner has not challenged the order of the respondent. Therefore, the present writ petition is not maintainable and the same is liable to be dismissed.

5.Such contention cannot be accepted for the simple reason that the Tribunal has passed the order to regularize the service of the petitioner from the date of his initial appointment and if at all any reason that has been communicated to the petitioner and as such, it has never been informed and even as far as the petitioner is concerned, there was an order to regularize his service and a proposal was submitted to regularize the service of the petitioner by implementing the order of the Tribunal. Thereafter, the Government has given an exemption for the respondent to comply with the order of the Tribunal. The order of the Tribunal has not been complied with, for the simple reason that the petitioner has brought into regular time scale of pay in the year 2012. Therefore, the petitioner had sent a representation seeking for complying with the orders of the Tribunal in full. Therefore, there is no reason for denying the approval of the petitioner on compassionate ground and hence, I interfere with the impugned order passed by the third respondent.

6.Accordingly, this Writ Petition stands allowed and the impugned order dated 24.12.2013 is quashed and directed the respondents to regularize the service of the petitioner from the date of his initial appointment with all monetary benefits. It is brought to the notice of this Court that the petitioner was retired from service. Therefore, the appointment made in the post of Gang Coolie shall be regularized from the date of his initial appointment and to disburse all monetary benefits including the revised pension and also the arrears, within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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To

1.The Principal Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai-9.

2.The Commissioner of Municipal,
Administration and Water Supply Department,
Chepauk, Chennai-5.

3.The Commissioner,
Bodinayakkanur Municipality,
Bodinayakkanur.

+1 CC to Mr.M.KARUPPASAMY PANDIAN, Advocate (SR-2613[F] dated 23/01/2020)

+1 CC to Mr.J.PAREKHKUMAR, Advocate (SR-2764[F] dated 24/01/2020)

+1 CC to SPL GP (SR-2833[F] dated 24/01/2020)

**ORDER MADE IN
W.P (MD) No.16289 of 2014
23.01.2020**

VB(24.02.2020) 4P 7C