



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.NO.30555 OF 2008

- 1.S.Rajkumar
- 2.E.Kannappan
- 3.M.Franic Simon @ Francis (Deceased)
- 4.R.Manivannan
- 5.T.Subramani
- 6.R.Baskar
- 7.F.Vanitha Josphin
- 8.F.Christy
- 9.F.Samuvel

... Petitioners

(P7 to P9 substituted as LRs of deceased
third petitioner vide order dated 8.9.2021 made in
WMP.No.19522/2021 in WP.No.30555/2008)

Vs

1. The Commissioner of Municipal Administration,
Chepauk, Chennai-5.
2. The Commissioner,
Madhavaram Municipality,
Madhavaram, Chennai-60.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the records connected with the proceedings issued in Na.Ka.No.3890/08/C1 dated 08.12.2008 passed by the 2nd Respondent and quash the same and consequently direct the respondents to regularize the petitioners service from the date on which the petitioners completed their tenure in the post of Consolidated scale and fix the petitioners pay from 2000, 2002 to 2006 onwards and pay arrears for that period.

For Petitioners : Mr.S.Ilamvaludhi

For Respondents : Mr.S.John J.Raja Singh
Government Advocate for R1
Mr.P.Subramanian for R2



O R D E R

The petitioners in this matter have challenged proceedings dated 08.12.2008, passed by the Commissioner, Madhavaram Municipality/R2 and seek a consequential direction to the respondents to regularise their service from the date when the petitioners completed their tenure in the post of consolidated scale, fix their pay from 2000, 2002 to 2006 onwards and pay them the arrears for the periods in question.

2. When the matter had come up on 21.09.2021, I had passed the following order:

'The issue in this case relates to the date of regularisation of five petitioners (originally six though one has passed away pending writ petition). The petitioners were, admittedly, taken into service on various dates in the Tamil Nadu Electricity Board. Five petitioners had been granted consolidated basis of pay on 19.01.2000, and one, on 21.01.2002.

2. The petitioners' sought regularization of their appointments but were denied the same on two grounds firstly, on the ground that they have not completed three years of service on consolidated basis and secondly, that on 29.11.2001, there was a State wide freeze on filling up of vacancies except essential services such as teaching and health services. This ban was lifted on 07.02.2006 and hence regularization could be considered only from the date of lifting of the ban.

3. Mr.P.Srinivas, learned counsel intervenes at this stage of the hearing to assist the Court, would point out that this very issue, as to whether the ban would impact continuity in service or only fresh recruitment to fill up vacancies, came to be considered by a Full Bench of this Court in S.Dhanasekaran and others Vs. Government of Tamil Nadu and others (2013 6 CTC 593) and was decided adverse to the employees to state that regularisation of service shall take effect only from date of lifting of the ban i.e. 23.02.2005 and not on the date when they had completed three years of service on consolidated basis.

4. A review petition in R.A.No.87 of 2014 came to be filed, which was allowed reversing the view originally taken as against which the State has filed



WEB COPY

a Special Leave Petition before the Supreme Court and obtained an order of stay on 14.08.2017. Copies of the order in review petition and stay granted by the Hon'ble Supreme Court are placed on file.

5. List on 23.09.2021 as Item No.1 to await copy of order of Mr.Justice M.Dhandapani stated to have been passed on identical factual and legal matrix.'

3. I am given to understand that in similar case, this Court has taken the view that since the issue of whether the period of ban between 29.11.2001 and 23.02.2005 would impact only fresh recruitments or even continuity in service, is pending before the Hon'ble Supreme Court, the writ petitions may well be closed and liberty granted to the petitioners to revive the matters should the need arise, as and when the judgment of the Hon'ble Supreme Court is delivered.

4. In the interest of consistency, I adopt the same stand. This writ petition is closed and liberty is granted to the petitioners herein to revive the matter, if need be, at a future date. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vs

To

1. The Commissioner of Municipal Administration,
Chepauk, Chennai-5.

2. The Commissioner,
Madhavaram Municipality,
Madhavaram, Chennai-60.

+1cc to the Government Pleader, S.R.No.49466

W.P.No.30555 of 2008

BR(CO)
CS/27/10/2021