

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 11.03.2021

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.No.20719 of 2012

1.C.Pencillamma
2.P.Anusuya

... Petitioners

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary Secretary to Government,
Rural Development Department,
Fort St. George, Chennai - 9.

2.The Director of Rural Development,
Panagal Buildings, Saidapet,
Chennai - 15.

3.The Asst. Director of Rural Department,
Panagal Buildings, Saidapet,
Chennai - 15.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Mandamus directing the respondents herein to regularize the service of the petitioners in the post of Scavengers by considering their representations dated 19.06.2012.

For Petitioner : Mr.Chellapandiyan
For Mr.A.Ramalingam

For Respondents : Mrs.K.Bhuvaneswari
Additional Government Pleader

ORDER

The prayer sought for herein is for a writ of mandamus directing the respondents herein to regularize the service of the petitioners in the post of Scavengers by considering their representations dated 19.06.2012.

2.It is also yet another pathetic situation, as projected by the learned counsel appearing for the petitioners, where, these two petitioners were appointed in the year 1983 at the respondent Department as part time Scavengers.

3.After having worked for some years, in the year 1998, the respondent Government has come forward to issue G.O.(Ms).No.261 dated 15.12.1998, by which, the services of these petitioners had been brought as full time employees on a consolidated pay.

4.Subsequently, in the year 2012 i.e., from 15.03.2012, these petitioners had been brought under Special Time Scale of Pay, which is nothing but Rs.1300-3000 + Rs.300. In the said time of scale of pay, these petitioners are worked all along and therefore, in order to bring them under regular time scale of pay atleast from the date they were brought under full time employees i.e., from 15.12.1998 and to confer the benefits on them, these petitioners had given separate representation to the respondents on 19.06.2012. However, the said representations since had not been considered, they filed this writ petition with the aforesaid prayer.

5.Heard Mr.Chellapandiyan, learned counsel appearing for the petitioners, who would submit that, from 1983 onwards they had been continuously working in the respondent Department as Scavengers and from 1998, these petitioners had been working as full time Scavengers with a consolidated pay only and the Government had come forward to bring them under Special Time Scale of Pay at Rs.1300-3000 + Rs.300 additional pay only from 15.03.2012 and in that capacity, they had been working for several years.

6.Subsequently, no consideration has been shown in respect of the service conditions of these petitioners as with that meagre salary to the maximum of Rs.1300-3000 being the Special Time Scale of Pay, not even a single individual can survive at present day market society and therefore, in order to bring them under regular time of scale of pay, for which, otherwise the petitioners are entitled to, they made a representation long back and in this regard, even though the respondents claimed that they will take steps to rectify the grievance of the petitioners, nothing was forth coming, therefore, they were constrained to file this writ petition and still they continue even after nearly about nine years after filing this writ petition, therefore, the learned counsel makes a fervent appeal before this Court to consider the pathetic situation of these petitioners and accordingly, a suitable direction by way of mandamus can be issued to the respondents to redress the grievance of the petitioners, he contended.

7. Heard Mrs.K.Bhuvaneswari, learned Additional Government Pleader appearing for the respondents who relied upon the following averments made in the counter affidavit.

"In view of the facts explained above, and their representation are still under scrutiny and required proposal will be sent to Government for getting appropriate orders in the matter. Therefore it is submitted that their writ petition is completely devoid of merits and it is prayed that the Hon'ble High Court may be pleased to dismiss the W.P.No.20719/2012 and thus render justice."

8. By relying upon the said averment in the counter, the learned Additional Government Pleader would contend that, considering the plight of the petitioners and their service conditions, necessary proposal was intended to be sent to the Government for getting appropriate orders in the matter and in this regard, if at all any such proposal so far has not been sent, the same would be prepared and sent to the Government for appropriate orders within a time frame and if already the proposal has been sent, necessary persuasive action would be taken by the respondents and accordingly, a suitable decision would be made by the Government i.e. the first respondent with regard to the grievance of the petitioners to bring them under Time Scale of Pay for getting all service benefits.

9. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed on record.

10. It is the settled law that, even the minimum basic scale of pay for a daily wager as on date is Rs.18,000/- plus per month, even for a NMR employee being employed in various Departments of the State Government, such minimum pay has been ensured, of course by the orders of this Court made more than once pursuant to which, suitable G.Os were issued by the State Government.

11. When that being so, these employees who had been working as Scavengers for decades together at the respondent Department cannot be kept in the very meagre salary of Rs.3000/- and odd for several years.

12. Though a nomenclature has been given for such meagre salary as Special Time Scale of Pay, the said Special Time Scale of Pay of Rs.1300-3000 + 300 would not be enough to meet both ends not even for a single person, therefore, no one can run the family, which are the weaker section of the present day society.

Hence, this Court feels that, there is every justification on the part of the petitioners to seek for orders to bring them under regular time scale of pay atleast from 1998 the date on which the G.O.(Ms)No.261 was passed, under which only, the petitioners were brought under full time employees.

13.In this context, even though it was claimed by the respondents through the counter affidavit, which was filed in the year 2012, that proposal will be sent to the Government for getting appropriate orders, it is not known as to whether any such proposal has already been sent by the Department to the Government and if at all the same has been sent, in the meanwhile, what decision the Government has taken in this regard also is unavailable.

14.In that view of the matter, taking into account the factual matrix of this case and also the pathetic service conditions of the employees i.e., the petitioners herein, this Court is inclined to dispose of this writ petition with the following orders.

(i) That the second and third respondents are hereby directed to send a detailed proposal, as averred in the said counter affidavit, as quoted above, with regard to the service conditions of the petitioners with recommendation to bring them under regular time scale of pay with effect from the date 15.12.1998 (date of issuance of G.O.(Ms).No.261 through which they were brought under full time employees to bring them under special time scale of pay) within a period of six weeks from the date of receipt of a copy of this order.

(ii) Once such a proposal is sent, if it is not already sent by the second and third respondents to the first respondent, the same shall be considered by the first respondent immediately and pass suitable orders enabling the second and third respondents to bring the petitioners under regular time scale of pay with effect from the date they have already been brought under full time employee i.e., 15.12.1998.

(iii) In this regard, if at all the Government do not wish to extend the financial benefit by way of backwages, atleast for notional purpose with continuity of service for all attendant and pensionable benefits, such kind of benefit to bring them under regular time scale of pay can be made under which the petitioners can be brought in and accordingly, their all other benefits mainly pensionable benefits can be calculated and be paid and continued to be paid till their entitlement. The needful, as indicated above, shall be

undertaken by the respondents within a period of totally twelve weeks from the date of receipt of a copy of this order.

15. With these directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Sgl
To

1. The Secretary Secretary to Government,
Government of Tamil Nadu,
Rural Development Department,
Fort St. George, Chennai - 9.
2. The Director of Rural Development,
Panagal Buildings, Saidapet,
Chennai - 15.
3. The Asst. Director of Rural Department,
Panagal Buildings, Saidapet,
Chennai - 15.

+1cc to the Government Pleader Sr.15858
+2cc to Mr.A.Ramalingam, Advocate Sr.15890

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