

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2021
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.34125 of 2014

1. K.Parameshwari
2. V.Mariyappan
3. S.Susila
4. R.Ganesan
5. P.Selvaraj
6. G.Arumugam
7. N.Kannan
8. P.Karthi
9. A.Vadivel
- 10.K.Radha
- 11.S.Nagarathinam
- 12.A.Chitradevi
- 13.P.Packiyalakshmi
- 14.R.Vijaya
- 15.M.Saravanan
- 16.P.Chellathurai
- 17.V.Arumugam
- 18.K.Murugesan
- 19.A.Gopinath
- 20.R.Kalavathi
- 21.C.Thilagavathi
- 22.K.Nagammal
- 23.M.Amsavaeni

... Petitioners

Vs

- 1 The State of Tamilnadu,
Rep by its Secretary,
Department of Adi Dravidar,
and Tribal Welfare,
Secretariat,
Chennai 9.
- 2 The State of Tamilnadu
rep by its Commissioner / Director,
Adi Dravidar and Tribal Welfare Department,
Chepauk, Chennai 5.

3 The District Welfare Officer,
The District Adi Dravidar and Tribal Welfare Office,
Tirupur District,
Tirupur. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to consider regularization of service and fixation of time scale payments for the petitioners who have been working as sanitary supervisors for several years under the 3rd respondent before making any new recruitment for sanitary workers under the 3rd respondents.

For Petitioners : Mr.K.Thilageswaran

For Respondents : Mr.K.K.Ramesh,
Government Advocate

ORDER

According to the petitioners, they have been continuously working as sweepers in various Government boys and girls hostels / residential school, which are coming under the control of the third respondent as daily wagers on consolidated pay. While so, the third respondent sent a proposal recommending the names of the petitioners for regularisation and fixation of time scale of pay to the second respondent on 20.12.2013. The second respondent sent a communication dated 24.09.2014 to the first respondent stating that he had received report from the District Welfare Officers of Madurai, Dindigul and Tirupur Districts from the persons, who have been working as sweepers in the Government hostels and schools and sent the same for further action. While so, the third respondent by communication dated 03.12.2014, called some of the candidates who were enrolled in employment exchange, for interview to the post of sweeper in the Government boys and girls hostel / residential schools at Tirupur District. Aggrieved over the same, the petitioners have come up with this writ petition seeking a direction to the respondents to regularise their services and fixation of regular time scale of pay, before making any new recruitment.

2.On 19.12.2014, when the matter was taken up for admission, this Court granted an order of interim injunction, restraining the third respondent from appointing any person other than the petitioners as sweepers in the Government Adi Dravidar Welfare Hostels for boys and girls / residential schools at Tirupur District, pending disposal of this writ petition.

3.Upon notice, the respondents filed a detailed counter affidavit inter alia stating that the third respondent has not sent any proposal for regularising the service of the petitioners; the petitioners are not engaged under any basis in the respective hostels and they have no muster roll for their service; and hence, they are neither temporary nor daily wage servants.

4.The learned counsel for the petitioner seriously opposed the averments made in the counter affidavit filed by the respondents. It is submitted that the petitioners have been working continuously for more than 480 days within a period of two years and recommendation and further proceedings for their regularisation of service have already been made by the respondents and if the new recruitment based on employment seniority is made, the right of the petitioners to livelihood would be adversely affected. Hence, the learned counsel sought a direction to the respondents to consider the claim of the petitioners favourably.

5.On the other hand, the learned Government Advocate appearing for the respondents fairly submitted that the respondents would consider the claim of the petitioners, if it is pending, and pass orders on merits.

6.Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the respondents to consider the claim of the petitioners, if not already considered and pass appropriate orders, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. Till such time, the interim order already granted by this Court on 19.12.2014 shall stand continued.

7.This writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

msv
To

1 The Secretary to Government,
Department of Adi Dravidar and Tribal Welfare,
Secretariat, Chennai 9.

- 2 The Commissioner / Director
 Adi Dravidar and Tribal Welfare Department
 Chepauk, Chennai 5
- 3 The District Welfare Officer
 The District Adi Dravidar and Tribal Welfare Office,
 Tirupur District, Tirupur.

+lcc to M/s.K.Thilageswaran, Advocate Sr.3644
+lcc to the Government Pleader Sr.3579

W.P.No.34125 of 2014

gmi[co]
srg 26/04/2021