



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P (MD) No.7932 of 2021

P.Edwin Robert Singh

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Public Works Department,
St. George Fort,
Chennai - 600 009.

2.The Engineer-in-Chief & Chief Engineer (General),
Water Resources Department,
Public Works Department,
Chennai - 600 005.

3.The Chief Engineer, WRD,
Public Works Department,
Madurai Region,
Madurai - 625 002.

4.The Superintendent Engineer,
Water Resource Organization,
Themiraparani Basin Circle,
Tirunelveli - 627 002.

5.The Executive Engineer, WRO,
Kodayar Basin Division,
Public Works Department,
Nagercoil - 629 001.

6.The Assistant Executive Engineer,
Water Resource Organization,
Kodayar Basin Sub-Division,
Cheruppalloor.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents herein to fix the petitioner's wages equivalent to the Basic Pay at the minimum of the pay scale applicable to the post of Sweeper/Scavenger with Dearness Allowance thereupon applicable



from time to time, by extending the benefit of G.O.Ms.No.137, Public Works (C2) Department, dated 13.09.2019 and G.O.Ms.No.233, Public Works (C2) Department, dated 06.12.2019, by considering the petitioner's representation, dated 04.03.2021 within the time stipulated by this Court.

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For Petitioner : Mr.C.Kishore

For Respondents : Mr.C.Ramesh
Special Government Pleader

ORDER

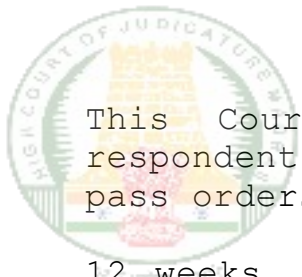
This Writ Petition is filed seeking for a Writ of Mandamus, directing the respondents to fix the petitioner's wages equivalent to the Basic Pay at the minimum of the pay scale applicable to the post of Sweeper/Scavenger with Dearness Allowance thereupon applicable from time to time, by extending the benefit of G.O.Ms.No.137, Public Works (C2) Department, dated 13.09.2019 and G.O.Ms.No.233, Public Works (C2) Department, dated 06.12.2019, by considering the petitioner's representation, dated 04.03.2021 within the time stipulated by this Court.

2.Mr.C.Ramesh, learned Special Government Pleader accepts notice on behalf of the respondents.

3.By consent, the Writ Petition is taken up for final disposal at the stage of admission itself.

4.According to the petitioner, he was appointed as NMR/Mazdoor (daily wage employee) in the office of the fifth respondent on 01.01.1996 and he had been continuously working as a daily wage employee right from 1996 till date and after completion of 10 years, ie., on 31.12.2005, a Service Register was opened and maintained by the respondents 5 and 6.

5.In the mean time, the respondents have sorted out a list of daily wage employees in NMR scheme, who have completed 10 years of continuous service, for regularization and a list of 17 daily wage employees were prepared by the respondents 3 and 4, which includes the petitioner's name also. Accordingly, their service particulars along with necessary documents were sent to the file of the respondents 1 to 4 for necessary action. From that date, the petitioner's name was remained in the list of daily wage employees, who are entitled for regularization. The petitioner has sent a representation to the respondents seeking regularization of service on completion of 10 years of NMR service. Since no action has been taken, the petitioner filed a Writ Petition in W.P.No.21516 of 2019 before the Principal Bench of this Court.



This Court, by order dated 26.11.2019, directed the fifth respondent to consider the representation of the petitioner and pass orders within a period of

12 weeks. Even after receiving the order passed by the Principal Bench of this Court, no order has been passed. Subsequently, in compliance with the order passed by this Court in W.P(MD)No.24081 of 2018, dated 31.01.2019, a Government Order in G.O.Ms.No.137, Public Works (C2) Department, dated 13.09.2019, came to be passed and thereafter, another G.O in G.O.Ms.No.233, dated 06.12.2019, came to be passed. However, the petitioner's request for regularization of his service is still pending. Hence, the petitioner has come out with the present Writ Petition.

6.The learned Special Government Pleader, on instructions from the sixth respondent, represented that the petitioner did not attend the office after 30.08.2009 and he did not work. In view of the same, the petitioner's name was not sent for regularization and prayed for dismissal of the Writ Petition.

7.Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

8.From the materials available on record, it is seen that, according to the petitioner, he was appointed as NMR/Mazdoor (daily wage employee) in the office of the fifth respondent from 01.01.1996 and his Service Register was opened in the year 2005 and maintained by the respondents 5 and 6, on completion of 10 years of Service. From the year 2009 onwards, the petitioner's name was in the list for regularization, but his service was not regularized. Seeking regularization of service on completion of 10 years of NMR service was not considered by the respondents, the petitioner filed a Writ Petition in W.P.No.21516 of 2019 before the Principal Bench of this Court and this Court, by order dated 26.11.2019, directed the fifth respondent to consider the representation of the petitioner and pass orders within a period of 12 weeks. According to the petitioner, the fifth respondent had not passed any order. Subsequently, in compliance with the passed by this Court in W.P(MD)No.24081 of 2018, dated 31.01.2019, a Government Order in G.O.Ms.No.137, Public Works (C2) Department, dated 13.09.2019, came to be passed and thereafter, another G.O in G.O.Ms.No.233, dated 06.12.2019, came to be passed. However, the petitioner's request for regularization of his service is still pending.

9.Considering the submissions made by the learned counsel appearing for the petitioner and also considering the submissions made by the learned Special Government Pleader appearing for the



respondents that the petitioner did not attend the work after 30.08.2009, without deciding the issue on merits, the fifth respondent is directed to consider the representation of the petitioner, dated 04.03.2021, in the light of the earlier order passed by this Court in W.P(MD)No.24081 of 2018, dated 26.11.2019

and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order and communicate the same to the petitioner.

10.With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar()

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The Secretary,
Public Works Department,
St. George Fort,
Chennai - 600 009.
- 2.The Engineer-in-Chief & Chief Engineer (General),
Water Resources Department,
Public Works Department,
Chennai - 600 005.
- 3.The Chief Engineer, WRD,
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Water Resource Organization,
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+1.C.C to Mr.C.Kishore, Advocate, SR.16561

+1. C.C. to Special Government Pleader, SR.No.16491

W.P (MD) No.7932 of 2021
17.04.2021

ps

RM 19/05/2021 (5P-9C)