



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No.17625 of 2021

WEB COPY

M.Pappa

... Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary to Home Department,
Fort St. George,
Chennai - 600 009.

2.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai - 600 004.

3.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd and 3rd respondents to revise and regularize the service seniority of the petitioner from the date of their initial appointment i.e., 29.08.2001 and to convert petitioner's basic pay to time scale of pay as per the G.O.(MD) No.74 dated 27.06.2013 and G.O.(ST) No.81 dated 10.08.2020 issued by the Government of Tamilnadu, Department of Personnel and Administrative Reforms (F) and give the Pension from the date of her retirement on the basis of the petitioner's representation dated 10.08.2021.

For Petitioner : Mr.A.Rajaram

For Respondents : Mr.S.Shanmugavel, Standing Counsel

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the 2nd and 3rd respondents to revise and regularize the service seniority of the petitioner from the date of their initial appointment i.e., 29.08.2001 and to convert petitioner's basic pay to time scale of pay as per the G.O.(MD) No.74 dated 27.06.2013 and G.O.(ST) No.81 dated 10.08.2020 issued by the Government of Tamilnadu, Department of Personnel and Administrative Reforms (F) and give the Pension from the date of her retirement on the basis of the petitioner's representation dated



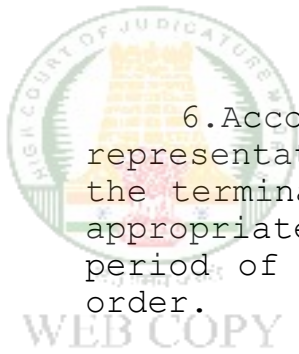
10.08.2021.

2. Heard, the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, she was appointed as Scavenger on 29.08.2001 in Ammapatti Circle, which is under the control of the 3rd respondent through Employment Exchange. All along she worked as such and her basic pay was fixed at Rs.445/-and retired on 31.07.2021 from service and her service was not regularized. Her juniors who were working in Rajapalayam Circle, were brought under time scale of pay vide proceedings dated 11.04.2014 by the third respondent. The grievance of the petitioner is that though she was senior, her pay was not fixed. One other similarly placed person moved a writ petition before this Court in W.P.(MD) No.8545 of 2019 and pursuant to the orders passed therein, his pay was fixed as time scale of pay by the 3rd respondent as per G.O.(MD) No.74 dated 27.06.2013. The 1st respondent issued G.O.(ST) No.81 dated 10.08.2020 wherein, consolidated pay is converted to time scale of pay for the post of part time scavengers. Based on the above two Government Orders, the petitioner made a representation dated 10.08.2021 to the respondents, seeking for regularization of her service and to bring her under regular time scale of pay as per the above said G.Os. Since no action is forthcoming, the petitioner has come forward with the present Writ Petition.

5. It is not in dispute that the petitioner all along worked on consolidated pay till the date of her retirement on 31.07.2021 and her service was not regularized. Now, the petitioner claims that she is entitled to the regularization of her service from the date of her initial appointment, which, in the opinion of this Court, cannot be sustained. When a similar issue came up for consideration in Writ Petition in W.P.(MD)No.4299 of 2015 vide order dated 03.07.2019, this Court has declined to grant such a relief of granting regularization from the date of initial appointment, holding that the part time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. Hence, there cannot be a direction for absorption, regularisation or permanent continuance of part time temporary employees. As far as the benefits claimed by the petitioner under the G.O.Ms. Nos.74 dated 27.06.2013 and G.O.(ST) No.81 dated 10.08.2020 are concerned, this Court is of the view that the petitioner cannot claim them retrospectively. Therefore, as regards the claim of the petitioner to bring her under regular time scale of pay is concerned, the respondents are required to consider the same in the light of the above said G.Os., from the date on which, the said G.Os. were given effect to.



6. Accordingly, the respondents are directed to consider the representation made by the petitioner dated 10.08.2021 for grant of the terminal benefits in the light of the above said G.Os. and pass appropriate orders in accordance with law and on merits, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 to Home Department,
The Government of Tamil Nadu,
Fort St. George,
Chennai - 600 009.

2.The Director General of Police,
Kamarajar Salai,
Mylapore,
Chennai - 600 004.

3.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.A.RAJARAM, Advocate (SR-30606[F] dated 29/09/2021)

+1 CC to M/s.SPL.GP (SR-30711[F] dated 30/09/2021)

**W.P (MD) No.17625 of 2021
29.09.2021**

RD/UV(01.11.2021) 3P 6C