



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.4724 of 2017

WEB COPY

- 1.S.Thanga Pandian
- 2.C.Chinnathambi
- 3.S.Raj
- 4.C.Paramasivan
- 5.P.Esakkimuthu

... Petitioners

(The first petitioner's initial was amended as per order of this Court dated 10.03.2021 in WMP(MD)No.14085 of 2017)

Vs.

- 1.The State of Tamil Nadu,
Rep. By its Secretary,
Backward Classes, Most Backward Classes,
Denotified Communities and
Minorities Welfare Department,
Secretariat,
Chennai - 600 009.
- 2.The Principal Secretary and Commissioner,
Backward Classes and Most Backward Classes,
Welfare Department,
Ezhilagam,
Chepauk, Chennai - 600 005.
- 3.The District Backward Classes and
Minorities Welfare Officer,
Collectorate Campus,
Tirunelveli, Tirunelveli District.
- 4.The State of Tamil Nadu,
Rep. By its Principal Secretary,
Department of Finance,
Secretariat,
Chennai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, to direct the respondents to regularize the petitioner's service in the post of Sweeper and fix the special time scale of pay with consequential benefits in the light of G.O(Ms)No.385, Department of Finance, dated 01.10.2010 within the time stipulated by this Court.



For Petitioners : Mr.T.Lajapathi Roy
For Respondents : Mr.M.Muthugeethayan
Special Government Pleader

ORDER

WEB COPY

This Writ Petition is filed seeking for issuance of a writ of Mandamus, to direct the respondents to regularize the petitioner's service in the post of Sweeper and fix the special time scale of pay with consequential benefits in the light of G.O(Ms)No.385, Department of Finance, dated 01.10.2010 within the time stipulated by this Court.

2. The case of the petitioners is that the first petitioner belongs to Schedule Caste Community and the other petitioners also belong to economically weaker section and the first petitioner was appointed as sweeper through employment exchange as a part-time sweeper at Government Denotified Communities Students Hostel, Vasudevanallur, Tirunelveli District and other petitioners were also appointed as sweepers at Government Backward Classes Welfare Student Hostel, Tirunelveli District. In the meanwhile, a Government Order was issued in G.O.(Ms) No.385, Department of Finance, dated 01.10.2010, to regularize and provide Special time scale of pay for the persons, who are working on consolidated pay for more than three years. Hence, the petitioners submitted representations dated 27.09.2016, 20.09.2016 and 21.09.2016 respectively and since no order was passed in the same, the present writ petition is filed.

3. Learned Counsel appearing for the petitioners would submit that during the pendency of the writ petition, the representations of the writ petitioners had been considered and their services were regularized.

4. However, learned Special Government Pleader appearing for the respondents would submit that the representations of the petitioners had already been rejected by the respondents, on 01.11.2018 and in support of his contentions, he would rely upon paragraph No.4 of the counter affidavit filed by the third respondent, which is as follows:

"4. With reference to averments made in paragraph 5 of the affidavit, it is submitted that in G.O.(Ms) No.385, Finance Department, dated 01.10.2010 orders were issued, fixing Special Time Scale of pay to the sweepers who are working in daily wages or consolidated pay working in Government offices on completion of three years of service. Moreover, the petitioners were informed of the fact, vide proceedings of Director of Backward Classes Welfare Na.Ka.No.B1/2475/2017-1, dated 01.11.2018 that the



said Government Order is not applicable to them since they are appointed as part time Sweepers only and as such they are not eligible for special time scale of pay."

5. In view of the contentions made in paragraph No.4 of the counter affidavit filed by the third respondent, the prayer in the writ petition cannot be entertained. Therefore, the Writ Petition is dismissed. No costs. However, liberty is granted to the petitioners to work out their remedy in the manner known to law.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SSL

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,
Backward Classes, Most Backward Classes,
Denotified Communities and
Minorities Welfare Department,
Secretariat,
Chennai - 600 009.
- 2.The Principal Secretary and Commissioner,
Backward Classes and Most Backward Classes,
Welfare Department,
Ezhilagam,
Chepauk, Chennai - 600 005.
- 3.The District Backward Classes and
Minorities Welfare Officer,
Collectorate Campus,
Tirunelveli,
Tirunelveli District.



4.The Principal Secretary,
Department of Finance,
Secretariat,
Chennai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-10289[F] dated
11/03/2021)

+1 CC to M/s.SPL GP (SR-10601[F] dated 11/03/2021)

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10.03.2021

MJ(CO)
KB(23.03.2021) 4P 7C