



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-06-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.14303 of 2014

1.A.H.Mani
2.T.M.Subramani
3.T.Ravi
4.J.Karnan
5.N.Nanjundan

.. Petitioners

vs.

1. State of Tamil Nadu represented by
Secretary,
Municipal Administration and Water Supply
Department,
Fort St. George,
Chennai - 600 009.

2. The Director of Municipal Administration,
Chepauk,
Chennai - 600 005.

3. The Commissioner,
Uthagamandalam Municipality,
Nilgiri District.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to G.O.(Ms.) No.21, Municipal Administration and Water Supply (MC3) Department, dated 23.02.2006 passed by the first respondent herein and quash the portion of the order i.e., 'to regularise their services in the regular post, from the date of issue of this order' alone and the consequential order in Na.Ka.No.E1/13666/2001 dated 15.05.2006 passed by the third respondent herein and further direct the respondents to regularise the services of the petitioners from the date of joining with all service and other monetary benefits.

For Petitioners : Mr.K.M.Rameh

For Respondents-1 and 2 : Mr.A.M.Ayyadurai,
Government Advocate.

For Respondent-3 : Mr.P.Srinivas



O R D E R

The relief sought for in the present writ petition is to call for the records relating to G.O.(Ms.) No.21, Municipal Administration and Water Supply (MC3) Department, dated 23.02.2006 passed by the first respondent herein and quash the portion of the order i.e., 'to regularise their services in the regular post, from the date of issue of this order' alone and the consequential order in Na.Ka.No.E1/13666/2001 dated 15.05.2006 passed by the third respondent herein and further direct the respondents to regularise the services of the petitioners from the date of joining with all service and other monetary benefits.

2. The petitioners were employed as Wiremen, Meter Reader and Junior Assistants respectively on daily wages basis (NMR) in the Udhagamandalam Municipality. The initial appointment of the petitioners were made on consolidated pay basis. They continued in service for several years. Subsequently, the service of the writ petitioners were regularized based on the G.O issued in G.O.Ms.No.21 of Municipal Administration and Water Supply Department dated 23.02.2006.

3. The grievances of the writ petitioners are that though their services were regularized pursuant to the G.O and Orders of the Court from the date of their initial appointment and benefits are also settled, now, the respondents has issued impugned order to recover the arrears already paid to the employees.

4. The learned counsel for the petitioners made a submission that the benefits were granted pursuant to orders passed by this Court in W.P.No.17025 of 2012 dated 30.07.2012. Thus, the recovery order impugned without issuing show cause notice is liable to be set aside. It is contended that the said order of this Court reached finality.

5. The learned counsel for the third respondent-Municipality objected the said contention by stating that the issues regarding the regularization of the service of these temporary employees from the date of initial appointment as consolidated employees are now subjudice before the Hon'ble Supreme Court of India. Initially the Hon'ble Full Bench of this Court rejected the claim of these temporary employees. Subsequently, in a Review Application filed by the employees, the Hon'ble Full Bench reviewed its own judgment in Review Application (MD) No.87 of 2014 and granted benefit of regularization from the date of initial appointment as temporary employees.



6. The learned counsel for the third respondent-Municipality made a submission that the said Full Bench judgment was taken by way of appeal before the Hon'ble Supreme Court of India in SLP Nos.21249 of 2017 and 22176 of 2017 and the Hon'ble Supreme Court of India granted interim stay of the judgment of Hon'ble Full Bench passed in Review Application on 15.09.2017. The stay granted is in force and the appeal is sub-judice before the Hon'ble Apex Court of India. Therefore, the rights of the employees are to be crystallized only after the disposal of the appeal by the Hon'ble Supreme Court of India.

7. In these circumstances, any order in the present writ petition would cause prejudice to either of the parties. The rights of the employees to be crystallized by the Hon'ble Apex Court of India in the pending appeal. The respondents have issued the impugned order based on the fact that the petitioners are not entitled for the arrears of pay as they are not liable for retrospective regularization from the date of expiry of 3 years from the consolidated pay service.

8. In view of the fact that the issues are sub-judice before the Hon'ble Supreme Court of India, the rights of the petitioners are to be decided only after the disposal of the Special Leave Petition. Thus, it is made clear that the decision to be taken by the Hon'ble Apex Court is to be made applicable to the petitioners and also for the purpose of extending the benefit of regularization and for grant of consequential benefits. Till the time the appeal is disposed of by the Hon'ble Supreme Court of India, the proposed recovery alone shall be kept in abeyance.

9. With the above observations, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

Svn



To

1. The Secretary,
State of Tamil Nadu,
Municipal Administration and Water Supply
Department,
Fort St. George,
Chennai - 600 009.
2. The Director of Municipal Administration,
Chepauk,
Chennai - 600 005.
3. The Commissioner,
Uthagamandalam Municipality,
Nilgiri District.

+1cc to Mr.P.Srinivas, Advocate, S.R.No.35739

+1cc to the Government Pleader, S.R.No.35328

WP 14303 of 2014

SR(CO)
UMA(27/06/2022)