



W.P.(MD) No.4338 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.4338 of 2020

and

W.M.P.(MD) No.3648 of 2020

1.K.R.Varadharajan

2.G.Kumar

3.E.Murugan

4.P.Muniyandi

... Petitioners

-VS-

1.The Secretary to Government
Home (Pol.15) Department
Fort St. George, Chennai

2.The Director General of Police,
Dr.Radhakrishnan Salai
Mylapore, Chennai 600 004.

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

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records



W.P.(MD) No.4338 of 2020

pertaining to the impugned order passed by the 3rd respondent herein in his proceedings No.B4/42093/62/2018 dated 11.04.2019 and quash the same as illegal and unconstitutional and consequently directing the respondents herein to regularise the services of the petitioners from the date of their initial appointment ie., 16.12.1998 and 12.02.2000 and to fix the regular time scale of pay of the petitioners in the light of order passed by this court in W.P.No.4489/2016 dated 08.02.2016 and G.O.Ms.No.232 Home (Police XV) Department dated 02.04.2018.

For Petitioner : Mr.C.Gangai Amaran

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

ORDER

Challenging the impugned order dated 11.04.2019 and for a consequential direction to the respondents to regularise the services of the petitioners from the date of their initial appointment ie., 16.12.1998 and 12.02.2000 and to fix regular time scale of pay in the light of the order passed by this Court in W.P.No.4489/2016 dated 08.02.2016 and G.O.Ms.No.232, Home (Polive XV) Department dated 02.04.2018, this writ petition has been filed.



W.P.(MD) No.4338 of 2020

WEB COPY

2. It is the case of the petitioners that they belong to Scheduled Caste community and they have completed 5th standard and they are able to read and write. They registered their name in the respective Employment Exchange. Pursuant to such registration, they have been called for and were appointed as Sweeper in Paralachi, Mamsapuram, Elayirampannai and Appanaickenpatti Police Station respectively on 12.02.2000 on consolidated pay and as such they have been serving in their respective places. The post of Sweeper comes under the purview of Tamil Nadu Basic Service Rules in Class IV category 12. The consolidated pay has been increased from Rs.445/- to Rs.900/- as per G.O.Ms.No.580 dated 04.07.2002, which was subsequently increased to Rs.1500/-. While so, a proposal was made by the Superintendent of Police, Virudhunagar for regularising the services of sweepers. Based on such proposal, upon recommendation of the 2nd respondent, G.O.Ms.No.110 dated 17.02.2011 was issued thereby fixing the time scale of pay at Rs.4800-10000 for sweepers. However the said benefit was extended only to cooks, barbers and laundrymen appointed between 1997 and 2007. While so, G.O.Ms.No.385 dated 01.10.2010 was issued fixing special time scale of pay at Rs.1300-3000 for daily



W.P.(MD) No.4338 of 2020

wages/consolidated pay sweepers, who have completed three years of service.

3. In similar circumstances, one T.Murugesan and three others, who were working as daily wage sweeper in Thanjavur District and whose services were not regularised, filed writ petition and this Court, upon considering their case, issued directions to consider their case, based on which, G.O.Ms.No.232 was issued. Since the petitioners were joined in the year 1998-2000, since they stand in the same footing, they sent representations to the respondents to consider their case for regularising their services. However, while rejecting their representations, the respondents passed the impugned order stating that since the petitioners were regularised on the basis of special time scale of pay and not on regular time scale of pay based on G.O.Ms.No.653, their cases could not be considered and hence, challenging the same, the petitioners are before this Court.

4. The learned counsel for the petitioners would submit that since



W.P.(MD) No.4338 of 2020

the petitioners stand in the same footing as that of the petitioners in W.P.No. 4489/2016 and based on the orders passed in the said writ petition, the petitioners are entitled for regularisation. He would further submit that earlier the petitioners filed W.P.(MD) No.16871/2018, which was disposed of on 14.02.2019 by directing the respondents to consider their representations. However, the impugned order passed by the respondents is not sustainable and hence, prays for interference.

5. Per contra, the learned Additional Government Pleader would submit that based on the orders of this Court, orders were passed by the third respondent stating that there is no rule with regard to changing the special time scale to regular time scale. Since the petitioners were appointed as part time sweepers and not full time sweepers, the regularisation order was not applicable to the petitioners herein. G.O.Ms.No.653 dated 07.08.2009 is only applicable to full time temporary employees, who have completed ten years of service. It is contended that as per G.O.Ms.No.22 dated 28.02.2006, the Government directed the services of daily wage employees working in all departments, who have rendered 10



W.P.(MD) No.4338 of 2020

years of service as on 01.01.2006 be regularised on time scale of pay.

However, since the petitioners herein were appointed not in accordance with the recruitment rules, they were not entitled for regularisation. Since these petitioners were only part time employees, their case was rightly rejected and no interference is warranted to the impugned order.

6. Heard the learned counsel for the petitioners and the learned Additional Government Pleader for the respondents and perused the materials available on record.

7. It is seen that the petitioners were appointed as part time sweepers in the respective police stations. They have been working in the said cadre and they have been paid Rs.450/- and subsequently it was enhanced to Rs.900/-. They have been subsequently brought under special time scale of pay of Rs.1300-3000. While so, it is their case that they are entitled to be absorbed in time scale of pay on par with the employees, whose services were regularised based on G.O.Ms.No.232 dated 02.04.2018, is not tenable. It is their case that they have been appointed as



W.P.(MD) No.4338 of 2020

per the proceedings of the third respondent in the year 1998-2000. Thus, it is clear that they have not been appointed as per the recruitment rules in vogue. It is pertinent to note that as per G.O.Ms.No.22, persons, who have completed ten years of service on temporary daily wage basis, were granted time scale of pay. It is not in dispute that the petitioners herein were appointed as part time sweepers and hence, they have been issued with the proceedings granting special time scale of pay at Rs.1300-3000 and hence, they are not entitled to be considered to be regularised on regular time scale of pay. Accordingly, their cases have been rejected by the respondents.

8. It is pertinent to note that the Government orders in G.O.Ms.No.653 dated 07.08.2009, which was issued for full time temporary employees completed ten years of service and G.O.Ms.No.1426 dated 11.10.2007, issued in respect of T.Murugesan and others, who were working on daily wage basis for more than ten years temporarily, were misconceived by the petitioners. Thus, the petitioners are not entitled to be conferred the benefit on par with others.



W.P.(MD) No.4338 of 2020

9. Accordingly, the writ petition fails and the same is dismissed.

No costs. Consequently connected Miscellaneous Petition is closed.

14.12.2022

Index : Yes/No
Internet : Yes
RR

To

- 1.The Secretary to Government
Home (Pol.15) Department
Fort St. George, Chennai
- 2.The Director General of Police,
Dr.Radhakrishnan Salai
Mylapore, Chennai 600 004.
- 3.The Superintendent of Police,
Virudhunagar District, Virudhunagar.



WEB COPY



W.P.(MD) No.4338 of 2020

M.DHANDAPANI, J.

RR

W.P.(MD) No.4338 of 2020

14.12.2022