



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2022

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) .No.5148 of 2018

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B.Raja

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Department of Municipal Administration and Water Supply,
Secretariat,
Fort St.George,
Chennai-09.

2.The Commissioner of Municipal Administration,
Ezhilagam Annexe, Chepauk,
Chennai - 600 005.

3.The Commissioner,
Madurai Corporation,
Madurai District.

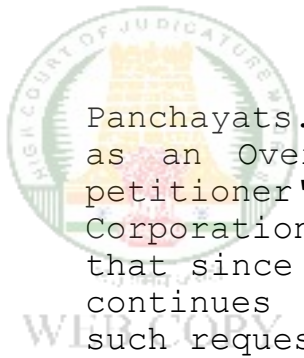
...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ma.Ni:20/010901/2015, dated 19.02.2018 on the file of the respondent No.3 and quash the same as illegal and consequently to direct the respondents to provide the Special Time Scale of pay to the petitioner in the post of Over Head Tank Operator with the time stipulated by this Court.

For Petitioner	:	Mr.S.Louis
For R-1 and R-2	:	Mrs.D.Farjana Ghoushia, Special Government Pleader.
For R-3	:	Mr.R.Murali, Standing Counsel.

ORDER

The petitioner herein was originally appointed as an Over Head Tank Operator at Melamadai Panchayat Union on consolidated pay basis. Later on, when the Panchayat Union came to be merged with the Corporation, he along with the other employees were absorbed into the Madurai Corporation as Over Head Tank Operators, in the year 2011. After the merger, the Village Panchayat Union has sought for approval of the Government to absorb the employees of the Panchayats and the Government, in G.O(Ms)No.116 dated 19.12.2012, had directed the Corporation to maintain status quo in respect of the consolidated pay workers and daily wage workers of the merged



Panchayats. In view of this, the petitioner now continues to work as an Over Head Tank Operator on consolidated pay basis. The petitioner's request for regularization came to be rejected by the Corporation through the impugned order dated 19.02.2018, stating that since the petitioner was absorbed on consolidated pay basis and continues to be on consolidated pay before the Corporation also, such request for regularization is not feasible.

2. While the petitioner places reliance on G.O(Ms)No.113, Municipal Administration and Water Supply (MC IV) Department dated 11.09.2014, whereby, two similarly placed employees, who were on consolidated pay, had been brought under special time scale of pay, the learned Standing Counsel appearing for the Corporation relied on the averments in the counter-affidavit and submitted that in view of G.O(Ms)No.116 dated 19.12.2012, whereby, the Government had directed the Corporation to maintain status quo in respect of the consolidated pay workers and daily wage workers of the merged Panchayats, they are unable to comply with the petitioner's request.

3. The Government Order in G.O(Ms)No.116 was passed on 19.12.2012. However, based on the proposal submitted by the Corporation dated 21.08.2014, the Government, in G.O(Ms)No.113 Municipal Administration and Water Supply (MC IV) Department dated 11.09.2014, had made a reference to G.O(Ms)No.116 dated 19.12.2012 and brought two of the erstwhile Panchayat workers under special time scale of pay. One among these two workers hail from Melamadai Village Panchayat. While that be so, the rejection of the petitioner's request even for sending a proposal to the Government, seems to be a selective discrimination. I do not find any justification in differentiating the consolidated pay workers covered under G.O(Ms)No.113 dated 11.09.2014 and the petitioner herein. Moreover, the Government's recommendation in G.O(Ms)No.116 dated 19.12.2012 was made about ten years back and retaining the petitioner herein continuously on consolidated pay, when he was regularly appointed in the year 1997 by the Panchayat, is unjustifiable. On these grounds, this Court is of the view that the Corporation ought to have sent a proposal to the Government seeking for regularization of their employees, who are on consolidated pay basis for a considerable length of time.

4. For all the foregoing reasons, the impugned order dated 19.02.2018 stands quashed. Consequently, there shall be a direction to the third respondent/ the Commissioner, Madurai Corporation to send a proposal to the first respondent herein/Government, seeking for bringing the petitioner under special time scale of pay, within a period of four (4) weeks from the date of receipt of a copy of this order. On receipt of such a proposal, the first respondent herein shall pass necessary orders, bringing the petitioner under special time scale of pay, in the light of G.O(Ms)No.113 Municipal Administration and Water Supply (MC IV) Department dated 11.09.2014, of three (3) months thereafter.



5. This Writ Petition stands allowed accordingly. There shall be no order as to costs.

Sd/-

Assistant Registrar (T&P)

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// True Copy //

/06/2022

Sub Assistant Registrar(CS)

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To

1.The Secretary,
The State of Tamil Nadu,
Department of Municipal Administration and Water Supply,
Secretariat,
Fort St.George,
Chennai-09.

2.The Commissioner of Municipal Administration,
Ezhilagam Annexe, Chepauk,
Chennai - 600 005.

3.The Commissioner,
Madurai Corporation,
Madurai District.

+1 CC to M/s.S. LOUIS, Advocate (SR-26978[F] dated 20/06/2022)

+1 CC to M/s.R. MURALI, Advocate (SR-27046[F] dated 21/06/2022)

W.P. (MD) .No.5148 of 2018
20.06.2022

RD(29.06.2022) 3P 6C