



W.P.(MD)No.7342 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.09.2022

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THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

**W.P.(MD)No.7342 of 2018 and
WMP(MD) Nos.7027 and 7028 of 2018**

M.S.Murugan

... Petitioner

Vs

1. The Principal Secretary to Government Handloom,
Handicrafts, Textiles and Khadi Department,
Fort St.George, Chennai - 600 009.
2. The Secretary to Government,
Revenue Department, Fort St. George,
Chennai - 600 009.
3. The Commissioner,
Survey and Settlement Department,
Chepauk, Chennai.
4. The Assistant Director,
District Land Survey and Records Department,
Virudhunagar.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorari calling for the records
pertaining to the impugned letter of the first respondent in Kaditha No.



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2928/F1/2016-8, dated 19/12/2017 and consequential letter of the third respondent in Na.Kaya.2/6876/2018 (Ni.Ah) dated 08/03/2018 and quash the same as illegal and unlawful.

For Petitioner : Pooventhera Rajan

For Respondents : Mr.S.Kameshwaran
Government Advocate

ORDER

Challenging the impugned order of the first respondent dated 19.12.2017 and the consequential letter of the third respondent dated 08.03.2018, the present writ petition has been filed.

2. The case of the petitioner is that he was appointed as Helper Grade II in the Kadhi Board with effect from 25.07.1994 by the proceedings of the Chief Executive Officer. Since the Khadi Board incurred loss, 378 staff were considered as excess staff and they were proposed to be absorbed in other Government/public sector/corporations/autonomous bodies and a letter dated 21.11.2009 was issued framing guidelines for such absorption. However, it is made clear in the letter that such absorbed employees would be treated as new appointees in their respective departments and they will be



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provided with pay protection, but, however, service protection will not be applicable to them. The petitioner is also one among the excess staff, who was absorbed in the land survey and records department and as such, he was appointed as Field Assistant in the office of the Special Tahsildar, Backward Classes Welfare, Virudhunagar with effect from 03.03.2010. While that being so, vide G.O.Ms.No.152, dated 12.07.2012, the excess employees were conferred with service protection, thereby, the services of the petitioner and other similarly placed persons were also included in the old pension scheme. Subsequently, the petitioner was granted selection and special grade on completion of ten and twenty years of service respectively. Thus, the petitioner was put in more than 20 years of service, which is pensionable service. While so, the first respondent, vide impugned letter dated 19.12.2017 directed the second respondent herein in treating the special/selection grade employees, who were absorbed from Kadhi Board to various other departments, is illegal and also directed them to recover the payment already made to such employees. Therefore, the petitioner is before this Court with this writ petition.



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3. Heard the learned counsel for the petitioner and the learned

Government Advocate appearing for the respondents.

4. The learned counsel for the petitioner would submit that the purpose of issuance of G.O., namely, G.O.Ms.No.152, is to ensure that the persons like the petitioner would be covered by the erstwhile pension scheme, which was in force till 31.03.2003. To substantiate his contention, the learned counsel relied on the white washers case reported in ***State of Punjab and others v. Rafiq Masih (white washer)*** reported in ***AIR 2015 SC 696***. Hence, the learned counsel for the petitioner prays interference of this Court.

5. When similarly placed persons, who are affected like that of the petitioner filed writ petitions, wherein, a learned Judge of this Court in W.P. (MD) No.8811 of 2018, vide order dated 22.04.2019, set aside the impugned order on the short point of violation of principles of natural justice and confirming the recovery initiated originally, directed the petitioners therein to approach the authorities. The said order was followed by this Court in W.P.(MD) No.2560 of 2018. Since the petitioner herein also



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stands on the same footing as that of the petitioners in the earlier writ petitions, the said order is applicable to the petitioner herein also.

6. In view of the above, the impugned order is set aside and the authorities are directed to pass orders afresh, after hearing the petitioner. While doing so, the authorities shall take note of the earlier Government orders, which were issued in the years 2009 and 2012, after examining the reasons for passing the subsequent Government order in G.O.Ms.No.152 dated 12.07.2012. The said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands allowed. No costs. consequently connected Miscellaneous Petitions are closed.

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Internet : Yes
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2. The Secretary to Government, Revenue Department, Fort St. George, Chennai - 600 009.
3. The Commissioner, Survey and Settlement Department, Chepauk, Chennai.
4. The Assistant Director, District Land Survey and Records Department, Virudhunagar.
4. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.



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J.NISHA BANU, J.

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