



W.P.(MD)Nos.386 to 394 of 2017, 3402 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **25.11.2022**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.386 to 394 of 2017, 3402 of 2020

and

W.M.P.(MD)Nos.284 to 292 of 2017, 2860 of 2020

V.Sivasanakarapillai

... Petitioner

Vs.

1. The State of Tamil Nadu
represented by its Principal Secretary,
Municipal Administration & Water Supply
Department,
St.George Fort,
Chennai – 600 009.
2. The State of Tamil Nadu
represented by its Principal Secretary,
Rural Development and Panchayat Raj Department,
St.George Fort,
Chennai – 600 009.
3. The Director of Town Panchayats,
Kuralagam,
Chennai – 600 015.
4. The Director of Rural Development,
Panagal Building, Saidapet,



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Chennai – 600 015.

5. The District Collector,
Nagercoil,
Kanyakumar District,
6. The Assistant Director of Town Panchayats,
Office at Collectorate,
Nagercoil – 629 001.
Kanyakumar District.
7. The Assistant Director of Village Panchayats,
Nagercoil,
Kanyakumari District.
8. The Executive Officer,
Kattathurai Village Panchayat,
(Erstwhile Town Panchayat)
Kattathurai,
Kanyakumari 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 Government Order in G.O.Ms.No.158, Municipal Administration and Water Supply Department, dated 29.10.2015 issued by the first respondent herein, in so far as it relates to restricting the petitioners regularization w.e.f. 23.06.2006 as per G.O.Ms.No.60 is concerned and the consequential proceedings of the 5th respondent in Na.Ka.No.336/2008/B5, dated



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14.12.2015 and consequential clarification order, passed by the sixth respondent in Na.Ka.No.336/2008/B5, dated 02.03.2016 and quash the same as illegal and consequently direct the respondents to absorb and appoint the petitioner on consolidated basis, by giving the benefit of G.O.Ms.No.198, dated 26.10.1998 and its consequential proceedings of the third respondent, dated 10.07.2000 and a letter dated 22.01.2001 of the sixth respondent, in any of the Town Panchayat in Kanyakumari District and consequently direct the respondents to regularize and bring the petitioner into regular time scale of pay from the date on which the petitioner has completed three years of service on consolidated pay and provide arrears of pay with all other benefits, by extending the benefits of G.O.Ms.No.142, dated 23.09.2015, to the petitioner.

For Petitioner : Mr.C.Kishore

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.C.Baskaran
Government Advocate

COMMON ORDER

These writ petitions are filed for Writ of Certiorarified



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Mandamus, to quash the impugned Government Order in G.O.Ms.No. 158, Municipal Administration and Water Supply Department, dated 29.10.2015 in so far as it relates to restricting the petitioners regularization w.e.f. 23.06.2006 as per G.O.Ms.No.60, Rural Development and Panchayat Raj Department, dated 23.06.2006, is concerned and consequently direct the respondents to absorb and appoint the petitioner by giving the benefit of G.O.Ms.No.198, Municipal Administration and Water Supply Department, dated 26.10.1998, in any of the Town Panchayat in Trichy District and consequently direct the respondents to regularize and bring the petitioner into regular time scale of pay from the date on which the petitioner has completed three years of service on consolidated pay and provide arrears of pay with all other benefits, by extending the benefits of G.O.Ms.No.142, Municipal Administration and Water Supply Department, dated 23.09.2015, to the petitioner.

2. The petitioners were appointed in various posts like Drinking Water Maintenance Assistant, Over Head Tank Operator etc.,



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on consolidated basis on 01.04.1992 and was working in the same post until 29.12.2015. On 26.10.1998, the first respondent issued G.O.Ms.No. 198, dated 26.10.1998, wherein, it was decided to appoint the daily wages workers on consolidated payment in the Town Panchayats and the said persons will be under consolidated pay for three years, thereafter, bring them under regular scale of pay as per the Government Order. As per the G.O. the petitioner ought to be absorbed in the year 2001 itself. Since the Town Panchayats were weak in financial status, the first respondent decided to convert the Town Panchayats into Village Panchayats in order to make them eligible to receive grants from the Government of India. According, G.O.Ms.No.75, dated 10.04.1999 was issued, wherein, 23 Town Panchayats shall remain as Village Panchayats and the employees of the newly constituted/converted Village Panchayats, the Provincialized employees concerned they shall be transferred from newly constituted Village Panchayats to some other Town Panchayats. The petitioner was working in one of the 23 Town Panchayats. The petitioner was receiving the service benefits which the petitioner was enjoying as an employee of the Town Panchayats. But the



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same was not extended after downgraded as Village Panchayats. The issue was addressed by the Government in G.O.Ms.No.126, dated 27.05.1999, wherein, the service benefits was granted and pay protection was granted. The petitioner is a non-provincialized employee in the newly constituted 23 Village Panchayats. The non-provincialized employees were making several representations to absorb in consolidated pay as per G.O.Ms.No.198, dated 26.10.1998, in any of the existing vacancies in the Town Panchayats. Hence the Government issued G.O.Ms.No.5, dated 20.01.2000, empowering to consider the representation to absorb in any of the existing vacancy in the Town Panchayats.

3. The Government issued G.O.Ms.No.60, dated 23.06.2006 which regularize all those consolidated employees into time scale of pay with effect from 23.06.2006. Wherein, it was made clear that those employees who were brought into consolidated payment under G.O.Ms.No.198, dated 26.10.1998, shall be regularized by fixing time scale of pay with effect from 23.06.2006. In the meantime, one



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Mr.Edwin Manohara Raj, who was a pump operator in the erstwhile Thikkanamcode Town Panchayat has filed O.A.No.2714 of 2001 which was renumbered as W.P.No.4411 of 2007, this Court, vide order, dated 11.10.2011, directed the respondents to absorb the petitioner in any of the Town Panchayat by appointing him on consolidated pay in the regular vacancy. Aggrieved over, W.A.No.2120 of 2012 was filed and the same was dismissed on 02.12.2014 and the issued has attained finality.

4. The contention of the petitioner is that based on G.O.Ms.No.198, dated 26.10.1998, the petitioner ought to have been brought under time scale of pay after regularization. Since the respondents have not conferred the benefits of both the Government Orders i.e., G.O.Ms.No.198, dated 26.10.1998 and G.O.Ms.No.60, dated 23.06.2006, the petitioner submitted several representations. Accordingly, the first respondent issued another Government Order in G.O.Ms.No.158, dated 29.10.2015 which is impugned in this present writ petition, wherein, it says that 29 non-provincialized employees, including



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the petitioner and the said Edwin Manohar Raj shall be absorbed in the time scale of pay with effect from 23.06.2006 as per G.O.Ms.No.60, dated 23.06.2006, which has been done notionally. The said Government Order has not referred anything about arrears of salary. The contention of the petitioner is that he ought to have been regularized on par with similarly placed persons as per the Government Orders G.O.Ms.No.198, dated 26.10.1998 and G.O.Ms.No.142 dated 23.09.2015. Since the same was not granted, but regularized as per G.O.Ms.No.158, dated 29.10.2015, Aggrieved over the said G.O.Ms.No. 158, the present writ petition has been filed.

5. The respondents have filed counter affidavit stating that in view of the financial crunch by taking into consideration of the population, the Government issued G.O.Ms.No.75, Municipal Administration and Water Supply Department, dated 10.03.1999, thereby 23 Town Panchayats were downgraded as Village Panchayats with effect from 01.04.1999. By considering the plight of the daily wage workers, consequent to the downgrading of the Town Panchayat into Village



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Panchayat, the Government issued G.O.Ms.No.126, Municipal Administration and Water Supply Department, dated 27.05.1999 thereby extending the service benefits to those non-provincialized employees of Town Panchayats were extended to those employees who are working in the Village Panchayats. G.O.Ms.No.198, 26.10.1998 and G.O.Ms.No.60, dated 23.06.2006 are not relevant in so far the petitioner is concerned as he was only a daily wage employee and never worked on consolidated pay at any stage. At the time of issue of the Government Order, the petitioner has worked only in the Village Panchayats i.e., downgraded from Town Panchayats. Subsequently they were brought into regular service as per G.O.Ms.No.60, Rural Development Department, dated 23.06.2006 notionally as a special case even though these employees were not worked on consolidated pay. Further, the G.O.Ms.No.142, Municipal Administration and Water Supply Department, dated 23.09.2015 is applicable only to those who have worked on consolidated payment and brought into regular time scale of pay as per G.O.Ms.No.60. But the petitioner was brought into regular time scale of pay directly from daily wage workers and G.O.Ms.No.142, dated 23.09.2015 is



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Subsequently, the Government by taking the population in the concerned Panchayats, had downgraded 23 Town Panchayats into Village Panchayats, so that the said Village Panchayats will get grant from the Central Government. Consequents to downgrading, the persons who are employed in the Town Panchayats became employees of Village Panchayats. Because of this downgrading, the persons employed in the Village Panchayats were not granted benefits of G.O.Ms.No.198, dated 26.10.1998 and G.O.Ms.No.60, dated 23.06.2006. The respondents have taken a specific stand that the said Government Order is applicable only to the Town Panchayats. The petitioner being aggrieved since their coworkers in Town Panchayats were regularized in consolidated pay and subsequently regularized in time scale of pay. Since the petitioner is similarly placed person, aggrieved over such decision of the Government by downgrading them from the Town Panchayat employees to Village Panchayat employees, they lost the benefits. Several other similarly placed persons had submitted representation to the Government. After considering the grievance of the petitioner and similarly placed persons, the Government has regularized the petitioner from daily wages directly



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to time scale of pay and notional given effect from the year 2006 onwards. Since the similarly placed persons were granted effect from 2001 onwards, the petitioner has preferred this writ petition. The contention of the petitioner is that if the Government has granted and implemented the benefits of G.O.Ms.No.198, dated 26.10.1998 uniformly irrespective of downgrading as Village Panchayats under G.O.Ms.No.75 dated 10.04.1999, the petitioner would not be affected. By invoking G.O.Ms.No.198, dated 26.10.1998 the petitioners would have reached the position of consolidated payment and subsequently regular time scale of pay even prior to 2003 itself.

8. However, the contention of the respondent is that since Town Panchayats, Village Panchayats are not Government employees, the policy decision would be taken based on the revenue generated by the Village Panchayats. If the claim of the petitioner is accepted, the Village Panchayats would again incur financial crunch. Therefore, such claim cannot be entertained.



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9. This Court is of the considered opinion that based on the financial crunch, the valuable rights granted to the petitioners cannot be taken away suddenly. If the G.O.Ms.No.75 dated 10.04.1999 was not intruding, the petitioners would be getting the same benefits. Infact the government had issued G.O.Ms.No.126, dated 27.05.1999, wherein, the service benefits and pay protection was granted. Having granted the service benefits and pay protection, then the regularization protection also should have been granted. The petitioners should be kept on par with the Town Panchayats because downgrading as Village Panchayats is not within the hands of the petitioner. Moreover, the petitioners' right has already accrued vide G.O.Ms.No.198, dated 26.10.1998 and that right suddenly cannot be taken away when downgrading occurred by issuing G.O.Ms.No.75 dated 10.04.1999, which is subsequent to G.O.Ms.No. 198. Because of the decision of the Government for downgrading the Town Panchayats, the petitioner should not suffer. Hence, this Court is inclined to pass the following orders:

- (i) The respondents shall keep the petitioners on par with the similarly placed persons in Town Panchayats by invoking



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G.O.Ms.No.198, dated 26.10.1998.

(ii) The petitioners are entitled to all consequently benefits.

10. With the above said observation, this Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petition is closed.

25.11.2022

Index : Yes / No
Internet : Yes / No
jbr

To

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State of Tamil Nadu
Municipal Administration & Water Supply
Department,
St.George Fort,
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2. The Principal Secretary,
State of Tamil Nadu
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S.SRIMATHY, J

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Order made in
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