



WEB COPY

W.P.(MD)No.16824 & 16825 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED: 23.02.2022  
CORAM

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**  
**W.P. (MD)Nos.16824 & 16825 of 2016**

**and**  
**W.M.P. (MD)Nos.12200 & 12201 of 2016**

**W.P. (MD)No.16824 of 2016**

K.Kannan

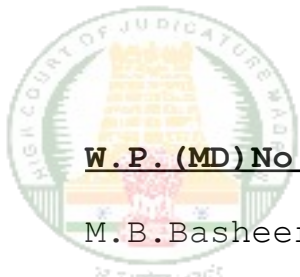
... Petitioner

vs

1. The State of Tamil Nadu  
represented by its Secretary,  
Department of Municipal Administration,  
Secretariat, Chennai.
2. The Commissioner of Municipal Administration,  
Ezhilagam Annexe, Chepauk,  
Chennai-600 005.
3. The Commissioner,  
Madurai Corporation,  
Madurai District.
4. The District Collector,  
District Collectorate,  
Madurai.
5. The Assistant Commissioner-in-Charge (Service),  
Madurai Corporation,  
Madurai District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ma.Ni.20/010640/2015 dated 14.06.2016 on the file of the respondent No.5 and quash the same as illegal and consequently for a direction, directing the respondents to re-fix the pay scale of the petitioner as 4800-10000+GP 1650 in accordance with the Government Order in G.O. Ms. No. 234, Finance (Pay Cell) Department, dated 01.06.2009 with effect from 25.10.2011 on parity with the similarly placed Sanitary Supervisors working in the third respondent Corporation with consequential benefits within the time period stipulated by this Court.



**W.P. (MD)No.16825 of 2016**

M.B.Basheer Mohamad

... Petitioner

vs

1. The State of Tamil Nadu  
represented by its Secretary,  
Department of Municipal Administration,  
Secretariat, Chennai.
2. The Commissioner of Municipal Administration,  
Ezhilagam Annexe, Chepauk,  
Chennai-600 005.
3. The Commissioner,  
Madurai Corporation,  
Madurai District.
4. The District Collector,  
District Collectorate, Madurai.
5. The Assistant Commissioner-in-Charge (Service),  
Madurai Corporation,  
Madurai District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Ma.Ni.20/010640/2015 dated 14.06.2016 on the file of the respondent No.5 and quash the same as illegal and consequently for a direction, directing the respondents to re-fix the pay scale of the petitioner as 4800-10000+GP 1650 in accordance with the Government Order in G.O. Ms. No. 234, Finance (Pay Cell) Department, dated 01.06.2009 with effect from 25.10.2011 on parity with the similarly placed Sanitary Supervisors working in the third respondent Corporation with consequential benefits within the time period stipulated by this Court.

**(In both cases)**

For Petitioner : Mr.G.Karthik  
for Mr.T.Lajapathi Roy

For Respondents : Mrs.D.Farjana Ghoushia for R1,R2 & R4  
Special Government Plealder

Mr.T.S.Mohamed Mohideen for R3 & R5



**ORDER**

These Writ Petitions are filed to quash the impugned order dated 14.06.2016 and directing the respondents to re-fix the pay scale as 4800-10000+GP 1650 in accordance with the Government Order in G.O.Ms.No.234, Finance (Pay Cell) Department dated 01.06.2009 with effect from 25.10.2011 on parity with the similarly placed Sanitary Supervisors working in the third respondent Corporation with consequential benefits.

2. The brief facts of the case are that on 02.05.1988, one post was sanctioned for the post of Health Mason / Conservancy Supervisors and the petitioner was appointed on 30.06.1990 in Vandiyur Panchayat, Madurai District, in consolidated pay of Rs.200/- and the said post was sanctioned by the District Collector. The Vandiyur Panchayat was merged with the Corporation, vide order, G.O.Ms.No.10, dated 06.01.2011. On 25.10.2011, the Melamada Panchayat and Vandiyur Panchayat staffs were taken into account and the staff strength was fixed based on the statistics in the year 2009. The petitioner submitted a representation seeking enhancement of wages and promotion to the Block Development Officer. The Block Development Officer recommended the petitioner's name to the Assistant Director (Panchayats), Madurai on 16.06.2009. On 01.10.2010 in G.O. Ms. No. 385, dated 01.10.2010, the sanitary workers time scale of pay was fixed with yearly increment and 3% of basic and Grade Pay. As per the said Government Order, the Block Development Officer (Madurai East), fixed Special Time Scale of pay to the petitioner on 09.05.2011 and that was paid only for two months. Thereafter, the said Special Time Scale of Pay was stopped.

3. The claim of the petitioner is he is working as a Sanitary Supervisor and the existing Sanitary Supervisors in the Madurai Municipal Corporation are getting more pay. Since the petitioners are doing the same work, they are entitled to get the pay on par with the existing Sanitary Supervisors. The petitioner submitted a representation to the fifth respondent and the same was denied, vide impugned order, dated 14.06.2016. Aggrieved over the same, this present writ petition is filed.

4. The third respondent has filed a counter affidavit stating that originally the petitioner was a consolidated employee in Melamadi Panchayat working as a sanitary worker and received Rs.200/- per month and thereafter, the petitioner received Rs.1500/- per month. The petitioner had already filed a writ petition in W.P. (MD) No.10803 of 2013 and Contempt Petition No.483 of 2014. As per the direction of the Court, the Government has passed G.O.Ms.No.113, dated 11.09.2014. Based on the Government Order, the Commissioner, Madurai has passed an order dated 25.09.2014 and a Special Time Scale of pay Rs.1300-3000+300GP has been fixed and the post was

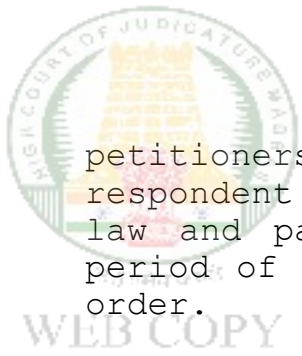


regularized for the writ petitioner. Now the petitioner is working in Madurai Corporation under the said scale of pay. The petitioner has also received all the pending salary as per the records maintained by the Corporation. The petitioner has been regularized in their service in Madurai Corporation, since he was not properly employed under the service rules and the petitioner was fixed Special Time Scale of pay. Now the petitioner has again filed this writ petition seeking the same remedy to re-fix the time scale of pay on par with the other sanitary workers.

5. Heard Mr.G.Karthik, learned Counsel appearing for the petitioner and Mrs.D.Farjana Ghoushia, learned Special Government Pleader appearing for the respondents Nos.1,2 & 5 and Mr.T.S.Mohamed Mohideen, learned Counsel appearing for the respondents Nos.3 & 5.

6. The appointment of the petitioner is under Panchayat service in Melamadai Panchayat and Vandiyur Panchayat. Initially the petitioners were appointed as Part Time employees and thereafter, they were given consolidated pay. After the expansion of Madurai Corporation, the Melamadai Panchayat and Vandiyur Panchayat were merged with Corporation and the existing employees in the Panchayats were regularized by paying consolidated pay. The petitioners have filed writ petition seeking to pay Special Time Scale of pay and this Court passed an order directing the respondents to bring them under Special Time Scale of pay, based on long service in the Panchayats. The respondents have passed G.O. Ms. No. 113, dated 11.09.2014 and the writ petitioners were brought under Special Time Scale of pay. The contention of the petitioners are that they are eligible for the salary on par with the existing sanitary workers since they execute the same work as a permanent employees and they relied on **Jagdish Singh Khehar's case reported in (2017) 1 Supreme Court Cases 148**. In the said case it has been stated that equal work equal salary is eligible for the payment of wages drawn by the regular employees and it also to be extended to the employees on temporary basis. However, in the present case, the petitioner's employment itself is under different set of rules which is applicable to the Panchayats. After merging, the petitioners ought to be brought under the Municipal Service Rules. The Municipality is following certain guidelines for fixing the salary in the present case. Now the petitioners are brought under Special Time Scale of pay and thereafter, the petitioners ought to be brought under regular employment by making them permanent against the existing vacancies in the Municipality. Thereafter, the petitioners are eligible for the regular payment which would be on par with the other sanitary workers.

7. Therefore, this Court is of the considered opinion that the Government is the appropriate authority to redress the claim of the



petitioners. Therefore, this Court is directing the first respondent to consider the claim of the petitioners in accordance to law and pass orders. The said exercise shall be done within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above direction, both the Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

**Note:**

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The Secretary,  
State of Tamil Nadu,  
Department of Municipal Administration,  
Secretariat, Chennai.
- 2.The Commissioner of Municipal Administration,  
Ezhilagam Annexe, Chepauk,  
Chennai-600 005.
- 3.The Commissioner,  
Madurai Corporation,  
Madurai District.
- 4.The District Collector,  
District Collectorate,  
Madurai.



5. The Assistant Commissioner-in-Charge (Service),  
Madurai Corporation,  
Madurai District.

+2 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate ( SR-8443[F] & SR-8444[F]  
dated 24/02/2022 )

+1 CC to M/s.SPL GP ( SR-8324[F] dated 24/02/2022 )

**W.P. (MD) No. 16824 & 16825 of 2016**  
**23.02.2022**

MGJ(17.03.2022) 6P 9C