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W.P. No.10629 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. No.10629 of 2015

N.Periyasamy

... Petitioner

.Vs.

1.The Secretary to Government
Tamil Nadu Municipal Administration
& Water Supply Department
Secretariat, Chennai – 600 009.

2.The Director of Town Panchayats
Kuralagam Buildings
Chennai – 600 108.

3.The Executive Officer
Mangalam Pettai Town Panchayat
Mangalam Pettai
Cuddalore District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to pass a Writ of Mandamus, directing the 3rd respondent to regularize the service of the petitioner and also to bring him on regular time scale on completion of three years of service on the date on which, the other three workers referred to in the award dated 18.09.2001 of the Labour Court,



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Cuddalore in I.D.No.104 of 1993 were regularized to extend him the benefits outlined in G.O.(D).No.34 dated 23.01.2013 issued by the 1st respondent and also grant all incidental service and monetary benefits arising thereof.

For petitioner : Ms.S.Girija

For respondents : Mr.U.M.Ravichandran,
Spl.GP for RR1 & 2
Mr.P.Chinnadurai for R3

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the 3rd respondent to regularize the service of the petitioner and also to bring him on regular time scale, on completion of three years of service.

2. The petitioner was working as Sweeper in the Office of the 3rd respondent Town Panchayat from 06.06.1989. While so, all of a sudden, without any notice, he was orally terminated from service on 02.06.1992. Challenging the said termination, petitioner filed I.D.No.104 of 1993 under Section 2-A(2) of the Industrial Disputes Act, before the Labour Court, Cuddalore.



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3. Before the Labour court, written statement was filed by the Management/Mangalampettai Town Panchayat, however not chosen to defend their case by producing any witness or any document on their side.

4. The Labour court, on a finding that the petitioner having worked for 4 continuous years and worked more than 240 days, without following the procedure set out in Section 25(f) of the ID Act, the Town Panchayat, terminating the petitioner from service is not correct and thus allowed the I.D. The Labour court set aside the termination passed by the Management/Town Panchayat and ordered for continuity of service with backwages.

5. Challenging the said exparte award, 3rd respondent/Town Panchayat preferred a Writ Petition in W.P.No.18075 of 1994. This Court, set aside the exparte award and remanded the matter back to the Labour Court, with a direction to the Town Panchayat to give employment to the petitioner herein as Sanitary Worker.



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6. The Labour Court, Cuddalore, passed an award dated 18.09.2001, in favour of the petitioner/workman. He was absorbed in the service of the 3rd respondent, however, without back wages.

7. Now, the petitioner has filed this writ petition, praying to regularize his service and also to bring him on regular time scale, on completion of three years of service, on the date on which, other three workers were regularized as referred to in the award dated 18.09.2001 passed in I.D.No.104 of 1993

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. The learned counsel for the petitioner/workman would submit that as per G.O.(D).No.34, Municipal Administration and Water Supply (TP.1) Department dated 23.01.2013, the Executive Officers of the Town Panchayats concerned are permitted to bring the persons as like that of the petitioner herein into the time scale of pay, with effect from the date on which they had completed three years of service. The learned counsel relied



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on the order passed by this court in W.P.No.21959 of 2013 etc batch dated 03.10.2013, and submitted that similarly placed persons were given the relief of bringing them into regular time scale from the date on which they completed three years service in the category of consolidated pay.

10. The learned counsel for the 3rd respondent-Mangalampettai Town Panchayat, has filed a detailed counter affidavit. It is stated that as per the award of the Labour Court in I.D.No.104 of 1993 dated 18.09.2001, petitioner is granted with the regular time scale of pay with effect from 01.11.2006 vide order of the 3rd respondent in Na.Ka.No.A1/425/2000 dated 30.11.2006. It is also submitted that G.O.(D).No.34 dated 23.01.2013 is not applicable to the petitioner and the petitioner cannot claim backwages for the period, which he did not attend office.

11. On a careful analysis of the facts put forth herein, this Court is of the considered view that the petitioner is entitled for regularization as per the award passed in I.D.No.104 of 1993 dated 18.09.2001 and G.O.(D).No.34 dated 23.01.2003. The writ petition filed by the Town Panchayat as against the award passed in I.D.No.104 of 1993, has been



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remanded to the Labour court and the Labour court, after rehearing the matter, passed the award dated 18.09.2001 in favour of the workman. The award dated 18.09.2001, has been challenged by the Town Panchayat, which was dismissed as infructuous by order of this court dated 08.08.2012.

12. A perusal of records would go to show that the 3rd respondent has sanctioned four regular posts, vide proceedings dated 22.09.1998, to absorb the NMRs working prior to 31.12.1996, whereby, three similarly placed persons were absorbed. In so far as the petitioner, due to the pendency of the I.D., he was not absorbed in the sanctioned post.

13. Now, the I.D., has reached its finality and similarly placed persons are enjoying the benefits of regularization, after completion of three years of service, therefore, the same benefit has to be extended to the petitioner herein also. Accordingly, the 3rd respondent is directed to regularize the service of the petitioner and bring him on regular time scale of pay as done in the case of the other three workers referred to in the award dated 18.09.2001 in I.D.No.104 of 1993 and the petitioner shall also be extended the benefits in G.O.(D). No.34 dated 23.01.2013 and all consequential



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benefits, within a period of eight weeks from the date of receipt of a copy of this order.

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14. Accordingly, the Writ Petition stands allowed. No costs.

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Index :Yes/No

Internet:Yes/No

Speaking order/Non-speaking order

Neutral citation:Yes/No

Jer/nvsri

Note:Registry is directed to issue order copy on 05.06.2023.

To

1.The Secretary to Government
Tamil Nadu Municipal Administration
& Water Supply Department
Secretariat, Chennai – 600 009.

2.The Director of Town Panchayats
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J.NISHA BANU, J.

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