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W.P.No.27132 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.27132 of 2012
and M.P.No.1 of 2012

P.Balan

... Petitioner

-Vs-

1. The Coonoor Municipality,
represented by its Commissioner,
Coonoor,
Niligiris District.
 2. The Commissioner,
Municipal Administration and Water Supply,
Chepauk,
Chennai-600 005.
 3. The Secretary to Government,
Municipal Administration and
Water Supply Department,
Fort St. George,
Chennai-600 009.
- ... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondents to appoint the petitioner on permanent basis on 27.05.1999 on consolidated basis for one year and after the said period of one year service to place the



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petitioner on time scale of pay with all consequential benefits.

For Petitioner : M/s.K.Shanmugakani
For R1 : Mr.R.Subburaj
For R2 and R3 : Mr.M.Muthusamy
Government Advocate

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the respondents to appoint the petitioner on permanent basis on 27.05.1999 on consolidated basis for one year and after the said period of one year service to place the petitioner on time scale of pay with all consequential benefits.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

3. The petitioner had joined in the service of the first respondent on 03.01.1993 as Nominal Muster Roll employee in the Drinking Water Supply Department. His service was not regularized. The Coonoor Municipality Workers Welfare Association filed a writ petition before this Court in W.P.No.18440 of 1998 for direction directing the respondents to



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absorb and regularize the services of all the NMR workers. This Court by an order dated 23.07.2001, directed the Municipality to consider their request in accordance with G.O.Ms.No.125 Municipal Administration and Water Supply Department dated 27.05.1999. As far as the petitioner is concerned, he was regularized by an order dated 19.05.2006. As per the subsequent G.O.Ms.No.21, Municipal Administration and Water Supply Department, dated 23.02.2006, the regularization of the service, should take effect only from the date of G.O and not from the date on which they had completed three years of service from the date of their initial appointment. Now the petitioner claims that his service ought to have been regularized from the period of completion of three years from the date of his original appointment i.e., 03.01.1993, as per the Judgment passed by this Court in Rev.Aplc.(MD).No.87 of 2014 in W.A.(MD).No.729 of 2013 and batch, dated 30.05.2017.

4. The Hon'ble Full Bench of this Court on 30.05.2017 in Rev.Aplc.(MD).No.87 of 2014 in W.A.(MD).No.729 of 2013 and batch challenging the G.O.Ms.No.101 dated 30.04.1997 and G.O.Ms.No.71 dated 05.05.1998, held as follows:-



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“ 29. In the result, Rev.Aplc.No.87 of 2014 is dismissed and Rev.Appl.Nos.223 and 254 of 2015 are allowed on the following terms:

(a) Persons employed as Sanitary Workers and covered by G.O.Ms.No.101 dated 30.04.1997 and G.O.Ms.No.71 dated 05.05.1998 are entitled to be regularized after the completion of the respective period under Consolidated Pay as specified in the Government Orders from the date of their initial appointment.

(b) Any orders passed by any Municipality regularizing the service based on G.O.Ms.No.21 dated 23.02.2006, Full Bench Judgment dated 29.11.2013 and G.O.Ms.No.166, dated 31.12.2014 shall be recalled and appropriate orders shall be passed as held above.”

5. Accordingly, those who were regularized as per G.O.Ms.No.21 dated 23.02.2006 shall be recalled and appropriate orders shall be passed. However, aggrieved by the order, the respondents filed appeals before the Hon'ble Supreme Court of India and it is pending in S.L.P (Civil).Nos.19874 and 21249 of 2017 and also obtained an interim order of stay.

6. Therefore, the respondents are directed to consider the case of the petitioner subject to the result of S.L.P (Civil).Nos.19874 and 21249 of 2017.

7. With the above directions, this Writ petition is disposed of.



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Consequently, connected Miscellaneous petition is closed. No costs.

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(3/4)

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

mn

To

1. The Commissioner,
The Coonoor Municipality,
Coonoor,
Niligiris District.
2. The Commissioner,
Municipal Administration and Water Supply,
Chepauk,
Chennai-600 005.
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