



W.P. No. 30344 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.04.2023

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P. No. 30344 of 2013

P.Thangavel

...Petitioner

Vs

1. The Director of Town Panchayat,
Fourth Floor, Kuralagam,
Chennai-600108

2. The Assistant Director of Town Panchayat,
Cuddalore Zone,
Cuddalore.

3. The Executive Officer,
Chinna Salem Town Panchayat,
Chinna Salem.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned orders dated 27.01.2012 and 08.08.2012 in Na.Ka.No.17073/2011/A3 passed by the Respondent No.1 herein, quash the same and directing the respondents herein to fix the petitioner who is working as a Night Watchman in the third respondent Town Panchayat on a time scale pay with the effect from 12.11.1994 in terms of G.O.Ms.No.878, Rural Development Department dated 15.05.1981 and



W.P. No. 30344 of 2013

consequently, pay the petitioner the entire arrears of salary calculated on time scale basis as applicable to the post and pay the same forthwith.

For Petitioner : Mr.P.K.Rajagopal
For Respondents : Mr.U.M.Ravichandran for R1 & R2
Spl.Govt Pleader
Mr.B.Anand for R3

ORDER

This Writ Petition has been filed to quash the impugned orders dated 27.01.2012 and 08.08.2012 in Na.Ka.No.17073/2011/A3 passed by the respondents herein and direct them to fix the petitioner on a time scale pay with effect from 12.11.1994 in terms of G.O.Ms.No.878 dated 15.05.1981 issued by the Rural Development Department and consequently, pay the entire arrears of salary calculated on time scale basis as applicable to the post.

2. The petitioner was appointed in the post of Night Watchman as contingency staff in the 3rd respondent town panchayat union through Employment Exchange with effect from 12.11.1984 and his consolidated pay was Rs.18 + allowances. The petitioner had been continuously working for a period of more than 10 years without any blemish.



W.P. No. 30344 of 2013

WEB COPY

(ii). Based on the G.O.Ms.No.878 dated 15.05.1981, the petitioner on completion of 10 years of service, had sent a representation dated 07.01.2010 to the 3rd respondent to bring his service into time scale of pay with effect from 12.11.1994 and to pay the entire arrears amount.

3. The 3rd respondent recommended the petitioner's representation dated 07.01.2010 to the first respondent/Town Panchayat vide reference No.Na.Ka.No.A1/1635/94 dated 05.03.2010, but they did not take any action for more than a year. Hence, the petitioner had filed a writ petition before this Court in W.P. No.14216 of 2011 praying to bring him on a time scale of pay and this Court by an order dated 18.08.2011 passed the following order.

".....4. Considering the nature of grievance expressed and in the light of the recommendations given by the third respondent, there will be a direction to the first respondent to consider the recommendations made by the third respondent on 5.3.2010 and pass orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order. It is stated



W.P. No. 30344 of 2013

WEB COPY

*that the petitioners are still working as contingent staff. If
that be the case, their services shall not be disturbed.'*

4. Based on the said order, the petitioner had sent a representation along with the order copy of this Court to act upon the direction. However, the 1st respondent rejected the request of the petitioner that he was not employed through Employment Exchange. Against which, the present writ petition is filed.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondents.

6. On perusal of the impugned orders dated 27.01.2012 and 08.08.2012, it is seen that no acceptable reason has been stated by the respondents to reject the claim of the petitioner. Admittedly, the petitioner has completed 10 years of service and the records revealed that the petitioner was appointed through Employment Exchange. In an earlier round of litigation, this Court vide order dated 18.08.2011 in W.P. No.14216 of 2011, directed the first respondent to consider the



W.P. No. 30344 of 2013

WEB COPY

recommendation made by the 3rd respondent, but the petitioner's claim was rejected without any reason. It is very unfortunate that the petitioner was made to run from pillar to post in spite of the order passed by this Court. Therefore, rejection orders passed by the respondents is without application of mind and thereby, the impugned orders dated 27.01.2012 and 08.08.2012 are quashed. The respondents are directed to regularise the service of the petitioner in the time scale of pay as per G.O.MS.No.878, Rural Development Department dated 15.05.1981 and to pay him the entire arrears of salary with interest @ 7.5% p.a. calculated on time scale basis as applicable to the post and pass appropriate orders within a period of eight(8) weeks from the date of receipt of a copy of this order.

7. With the above direction, the Writ Petition is allowed. No costs.

12.04.2023

Index:Yes/No

Internet:Yes/No

Speaking order:Non-speaking order

Neutral Citation:Yes/No

msv



W.P. No. 30344 of 2013

To
WEB COPY

1. The Director of Town Panchayat,
4th Floor, Kuralagam,
Chennai-600108
2. The Assistant Director of Town Panchayat,
Cuddalore Zone,
Cuddalore.
3. The Executive Officer,
Chinna Salem Town Panchayat ,Chinna Salem.



WEB COPY



W.P. No. 30344 of 2013

J.NISHA BANU,J.

msv

W.P.No. 30344 of 2013

12.04.2023