



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **27.06.2023**

CORAM

THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

W.P.No. 4984 of 2015

And

W.M.P.No. 36289 of 2019

R.Chellammal

... Petitioner

..Vs..

1. Tamil Nadu Pollution Control Board
Rep. By its Member Secretary
No.76, Mount Salai,
Guindy, Chennai 600 032.
2. The State of Tamil Nadu,
Rep. By the Principal Secretary
(Pollution and Environment), Tamil Nadu Pollution
Control Board, Chennai.

(R2 suo motu impleaded vide order dated 21.06.2023
made in W.P.No. 4984/2015 by VLNJ)

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the concerned records from the respondent, quash the order of the respondent dated 04.03.2013 bearing Proc.No. S.P./LA1/29759/2012 and the order of respondent dated 24.07.2013 bearing Proc.No. TNPCB/Law/LA1/29759/2012 in so far as regularizing the services only from 01.05.2013 instead of from September 1997 as illegal, arbitrary, contrary to law and consequently, direct the respondent to



regularise the petitioner services from September 1997, pay arrears of wages and also enroll her in the pension under the Tamil Nadu Pension Rules.

For Petitioner	:: Mr. R.Kamatchi Sundaresan
For 1 st Respondent	:: Ms. Vijayakumari Natarajan Standing Counsel
For 2 nd Respondent	:: Mr. K.Tippu Sultan Government Advocate

ORDER

The petitioner was appointed as a Sweeper and Scavenger in September 1997. She was terminated from service on 30.04.2003. The said termination was challenged by way of an Industrial Dispute in I.D.No. 283 of 2004. The said industrial dispute was allowed in full with the following directions:-

“10. In the result, an award is passed directing the respondent to reinstate the petitioner in service with backwages, continuity of service and all other attendant benefits. No costs.”



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2. The said award was put in challenge before this Court in W.P.No. 15424 of 2007. The Writ Petition came to be dismissed on 03.08.2012 with the following directions:-

“15. At this stage, Ms.Rita Chandrasekar, learned counsel for the TNPCB contended that the Board has no power to create a post on their own without getting approval from the State Government. Even on an earlier occasion, when regularisation was sought for in respect of two scavengers, it required an order to be obtained from the State Government. The State Government accordingly issued G.O.Ms.No.24, Environment and Forest Department, dated 05.02.2011. Therefore, the Board in order to have a sanctioned post of Scavenger under the TNPC Board Service Regulations, 2010 requires permission of the Government, as the Government is the competent authority. However, that question do not arise in the present case because the concerned workmen have been directed to be reinstated by the Labour Court, which itself is a sufficient direction to the TNPCB to accommodate these workers. If any violation of the Awards, confirmed by the High Court



will result in their being penalised under Section 29 of the I.D. Act. Therefore, there is no way out for the TNPCB except to regularise the services of the workmen. If any Government in an appropriate manner along with the Awards as well as the order passed by this Court. But that does not deter the TNPCB to immediately restore these workmen to service and seek for ratification subsequently.

16. *With these observations, all the three writ petitions will stand dismissed. No costs. Since the Award has been confirmed, the respective workmen from the Labour Court. In W.P.No. 15424 of 2007, since the amount to the workman. If any balance amount is to be paid, that can be calculated by the Board and pay the same to the workman without driving them to any further recovery mechanism, within two months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed. "*

3. Pursuant there to, proceedings were issued on 04.03.2013 appointing the petitioner with effect from 5.10.2012 and regularizing the service of the Scavenger from 01.05.2003.



4. The grievance is that she should be regularised from the date on which she joined the service I.e., from September 1997 and not as arbitrarily fixed on 01.05.2003. She pleads it requires interference. The date 01.05.2003 is the next date after the termination of the writ petitioner and that does not take into consideration, the award of the Labour Court which has been extracted above. The award has granted all the benefits, that was sought for by the writ petitioner.

5. Ms. Vijayakumari Natarajan, learned Standing Counsel appearing for the first respondent would submit that they have sent a proposal to the Government and it is still pending with them.

6. I had suo moto impleaded the State of Tamil Nadu / second respondent on 21.06.2023 and had asked the second respondent to state as to why in this case the proposal sent has been kept pending.

7. Mr.K.Tippu Sultan, learned Government Advocate, appearing for the second respondent would state that the proposal has not been sent in proper format. The second respondent has given him the instructions that he undertakes to ratify the entire process



within a period of 8 weeks from the date of the order.

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8. It is here that the order passed by Mr. Justice K.Chandru [as his Lordship then was] on 03.08.2012 becomes important. The learned Judge in paragraph No. 15 has specifically stated that the sanction being only administrative in nature, it is up to the Pollution Control Board to move and get the same. The Pollution Control Board does not have the right to fix the date arbitrarily especially when the industrial dispute has gone against it. That order was challenged and it has also ended in a dismissal.

9. It is also brought to my notice that no appeal has been filed against the order in W.P.No. 15424 of 2007. In other words, the order passed by the Labour Court, which has been confirmed by this Court, has attained finality. Therefore, it is a serious error on the part of the respondents to ignore the Labour Court order which had granted the benefits in full and regularising the petitioner only from 01.05.2003. She could have been regularised with effect from September 1997 as the proposal had already been pending.

10. Be that as it may, an undertaking has been given today. I record the same while allowing the Writ Petition. The plea that the regularisation order should be passed from September 1997, finding favour with this Court, the petitioner will be entitled to back wages as directed by the Labour Court together with right to be enrolled in the



pension scheme of the Tamil Nadu Pollution Control Board.

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11. In fine, the impugned proceedings are quashed. The Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

12. The first respondent shall regularise the writ petitioner from September 1997. The necessary proposal shall be sent and approval should be obtained within a period of 8 weeks as undertaken by the Government.

27.06.2023

vsg

Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order

To

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Tamil Nadu Pollution Control Board
No.76, Mount Salai,
Guindy, Chennai 600 032.
2. The Principal Secretary
The State of Tamil Nadu,
(Pollution and Environment), Tamil Nadu Pollution
Control Board, Chennai.



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V.LAKSHMINARAYANAN, J.,
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