



W.P.No.21097 of 2021 and
W.M.P.No.22357 of 2021

R.N.MANJULA,J.

This Writ Petition has been listed today under the caption "for being mentioned" at the instance of the learned counsel for the petitioners.

2. When the matter is taken up today, the learned counsel for the petitioners submitted that there are some typographical errors in the order passed in this Writ Petition on 01.12.2023 in respect of the rank of the petitioners and also in respect of the date of regularisation of the first petitioner's husband Elumalai. The said Elumalai got regularisation with effect from 07.08.2002 *vide* proceedings dated 29.06.2005. But in the order, it is wrongly mentioned that said Elumalai got regularisation on 29.06.2005. Therefore, he seeks necessary modification in the order dated 01.12.2023.

3. In view of the above submission of the learned counsel for the petitioners, the clerical errors in paragraph Nos.1,2,4,5,7,9,10,11 in the order dated 01.12.2023 passed in this Writ Petition is corrected to avoid the confusion as below:

" This Writ Petition has been filed to call for the entire records pertaining to the impugned order passed by the fourth respondent herein, vide his proceedings in Mu.Mu.No.5205/Na.O.Sa(1)/2020 dated 11.03.2020 and quash the same and consequently direct the respondents



herein to sanction Family Pension to the **first petitioner** and to disburse all monetary, service and other attendant benefits to the **petitioners** consequent to the death of **the first petitioner's** husband Late.Elumalai on 08.08.2020.

2. Mr.A.R.Suresh, the learned counsel for the **petitioners** submitted that the **first petitioner's husband** one Elumalai was appointed as a substitute Sanitary Worker on daily wages with the third respondent in the year 1992 along with 19 others and they have been sponsored through Employment Exchange; in the year 1998, the Government has framed a scheme in G.O.Ms.No.71 M.A. & W.S.Department dated 05.05.1998 for absorption of substitute sanitary workers and categorization **has** been made in accordance with the respective numbers of years of services rendered by the individuals.

4. In accordance with the above categorization, the individuals have been fixed with the respective consolidated pay and it is also assured that after completion of 1 year / 1 ½ years / 3 years they will be considered for **appointment** in the time scale of pay. Since Elumalai's services have not been regularized in accordance with the said Government Order, he along with 7 others have filed a Writ Petition in W.P.No.8673



of 2005 seeking direction of regularization of services and an order has been passed on 16.03.2005 in favour of Elumalai. Subsequently, he got regularized **with effect from 07.08.2002 vide proceedings dated 29.06.2005.**

5. The said Elumalai attained the age of superannuation on 31.05.2019 and later he died on 06.08.2020. However the **retirement benefits of Elumalai including pension was not given, despite his services has been regularized as early as on 07.08.2002.** The impugned order dated 11.03.2020 passed by the fourth respondent **states** that there is a case pending before the Hon'ble Supreme Court in respect of appointment of a person similar to the **deceased employee** and the terminal benefits can be considered only after disposal of the same.

7. But the learned counsel for the **petitioners** submitted that the Government has brought a subsequent order in G.O.Ms.No.21, Municipal Administration and Water Supply (MC3) Department dated 23.02.2006 in which the following conditions have been issued:

“ i) Sanctioned posts should be available.

ii) Persons should fulfill all Educational and other qualifications and

iii) Establishment (Pay and pension) expenditure of the



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Urban Local Body should not exceed 49% revenue after filling up of posts.”

9. So far as G.O.Ms.No.21, Municipal Administration and Water Supply (MC3) Department dated 23.02.2006 is concerned, it is applicable only for those persons who are yet to be regularized in pursuant to the earlier Government Order in G.O.Ms.No.71, Municipal Administration and Water Supply Department dated 05.05.1998, however from the date on which G.O.Ms.No.21, Municipal Administration and Water Supply (MC3) Department dated 23.02.2006 has been issued. But, so far as **the first petitioner's husband** is concerned, his regularization has been done as early as on **07.08.2002**. Hence the case of the **first petitioner's husband** has got nothing to do with the pending SLP.

10. The fourth respondent has confused himself about the impact of the SLP and passed the impugned order by stating that the **first petitioner's husband's** terminal benefit cannot be settled before the SLP is disposed. G.O.Ms.No.21, Municipal Administration and Water Supply (MC3) Department dated 23.02.2006 itself states that it is applicable to those persons who have been enrolled as daily wagers as on 01.10.1996 and 31.12.1996 respectively. Since the **first**



petitioner's husband's appointment relates back to the year 1992 and he has already got regularization, the later G.O.Ms.No.21, Municipal Administration and Water Supply (MC3) Department dated 23.02.2006, has got nothing to do with the **case of the first petitioner's husband** and hence the later litigations will not affect the interest of the **petitioners**. Hence, I feel the impugned order is liable to be quashed.

11. In the result, this Writ Petition is allowed and order passed by the the fourth respondent in his proceedings in Mu.Mu.No.5205/Na.O.Sa(1)/2020 dated 11.03.2020 is hereby quashed and the respondents are directed to sanction Family Pension to the **first petitioner** and to disburse all monetary, service and other attendant benefits to the **petitioners**, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed."

4. The Registry is directed to make necessary corrections in the order dated 01.12.2023 and issue a corrected copy of the order to the parties in this Writ Petition.

14.02.2024

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