



W.P.No.7357 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.7357 of 2016

and

W.M.P.No.6566 of 2016

A.Sakthivel

...Petitioner

Vs

- 1.The Chief Secretary,
State Commissioner for
Physically Handicapped,
No.15/1, Model School Road,
Thousand Light,
Chennai - 600 006.
- 2.The Commissioner,
Commissionerate for Rural Development,
4th & 5th Floor, Panagal Building,
Jeenus Road, Saidapet,
Chennai - 600 015.
- 3.The Collector,
Kancheepuram District,
Kancheepuram.
- 4.The Regional Development Officer,
Kancheepuram District,
Kancheepuram.



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5.The President,
Maannampadhi Village,
Uthiramerur Taluk,
Kancheepuram District.

...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 order dated 10.07.2015 passed by the 5th respondent herein without considering G.O.Ms.No.151 of 2008, dated 16.10.2008, Social Welfare Department and quash the same and consequently direct the 5th respondent to pay the petitioner from consolidated pay scale of time scale pay taking into consideration G.O.Ms.No.151 of 2008 passed by the Social Welfare Department, dated 16.10.2008.

For Petitioner : Dr.S.Padma

For R1 to R4 : Mrs.C.Meera Arumugam,
Additional Government Pleader

For R5 : Mr.M.Elumalai

ORDER

Heard Dr.S.Padma, learned counsel appearing for the petitioner, Mrs.C.Meera Arumugam, learned Additional Government Pleader for the respondents 1 to 4 and Mr.M.Elumalai, learned counsel for the fifth respondent.



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2. The petitioner herein was appointed as an Over Head Tank Operator under the fifth respondent Panchayat on 02.10.1999. As per the disability certificate issued by the Government dated 24.01.2006, the petitioner suffers from 65% locomotor disability. The Government, in G.O.Ms.No.151, Social Welfare and Nutritious Meal Department, dated 16.10.2008, had ordered for regularization of the services of physically disabled persons, who have been working in various departments of the Government for more than 2 years, on consolidated pay, to bring them under regular time scale of pay. Claiming the benefit of G.O.Ms.No.151, the petitioner herein had approached this Court in W.P.No.719 of 2012 and by an order dated 25.03.2015, this Court had directed the fifth respondent to consider the request of the petitioner, in the light of G.O.Ms.No.151, within a period of 3 months. When the respondents had not complied with the directions of this Court, the petitioner had filed Contempt Petition No.2766 of 2015. In this background, the fifth respondent herein had passed the impugned order dated 10.07.2015, by stating that as per G.O.Ms.No.93, Rural Development Department, dated 26.03.1997, there was a ban for appointment of Over Head Tank Operators in the Village Panchayats and therefore, the petitioner cannot



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seek for regularization in the post under G.O.Ms.No.151. This order is put under challenge in the present writ petition.

3. The learned counsel for the petitioner placed reliance on the disability certificate issued by the petitioner dated 24.01.2006, as well as G.O.Ms.No.151, dated 16.10.2008 and submitted that since the petitioner is a physically challenged person, he would be entitled for the benefits of G.O.Ms.No.151 and therefore, the respondents ought to have brought the petitioner under the regular time scale of pay.

4. The learned counsel for the fifth respondent submitted that the post of Over Head Tank Operator is not a sanctioned post in a Village Panchayat and they are appointed on temporary requirements and therefore, G.O.Ms.No.151 will not be applicable.

5. The learned Additional Government Pleader for the respondents 1 to 4 also placed reliance on the averments in the counter affidavit and reiterated the stand taken by the learned counsel for the fifth respondent.



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6. The reasoning adopted by the fifth respondent, as well as the learned Additional Government Pleader, cannot be sustained for the simple reason that the case of the petitioner herein cannot be brought on par with the regular Over Head Tank Operators. It is not in dispute that the petitioner herein is a physically challenged person. The Government, in G.O.Ms.No.151, dated 16.10.2008, had addressed the plight of such physically challenged persons working in various Government departments for more than 2 years and had thought it fit to bring them under the regular time scale of pay. The petitioner will not fall within the general pool of Over Head Tank Operator, since he was appointed on temporary basis and had been working for more than 2 years. G.O.Ms.No.151 is a special order applicable only to physically challenged persons, who may have been appointed on consolidated pay. As such, the stand taken by the fifth respondent in the impugned order that there was a ban for appointment of Over Head Tank Operators in the Village Panchayats, as well as the ground that there was no sanctioned post for Over Head Tank Operators in the Village Panchayats, cannot be sustained. Consequently, the petitioner herein would be entitled for regularization and for being brought into regular time scale of pay, in



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view of G.O.Ms.No.151, Social Welfare and Nutritious Meal Department, dated 16.10.2008.

7. In the light of the above findings, the impugned order passed by the fifth respondent dated 10.07.2015 is quashed. Consequently, there shall be a direction to the fifth respondent herein to forthwith pass orders, bringing the petitioner into regular time scale of pay, on completion of 2 years of service from the date of his joining and thereby, disburse all the service and other monetary benefits. Such orders shall be passed by the fifth respondent within a period of six (6) weeks from the date of receipt of a copy of this order.

8. Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.01.2023

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

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M.S.RAMESH,J.

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