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W.P.No.18989 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.18989 of 2020

1. S.Arumugam
2. P.Duraisamy
3. K.Velliyangiri
4. K.Lingeswaran
5. P.Vadivel
6. K.Balakrishnan
7. S.Jeevithan
8. K.Saravanan

/vs/

...

Petitioners

1. The Secretary to Government,
Rep. by its Secretary,
Municipal Administration and Water Supply Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The District Collector,
Tiruppur District,
Tiruppur.
3. The Commissioner,
Tiruppur Corporation,
Tiruppur District.

...

Respondents



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Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records pertaining to order passed by third respondent vide his proceedings in Na.Ka.No.H1/2798/2019 dated 23.12.2019 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to revise the scale of pay as per the G.O.(2D) No.62 (Labour and Employment (J1) Department dated 11.10.2017 and in the light of the order passed by this Court in W.P.(MD) No.24081 of 2018 dated 19.12.2018 and 31.01.2019 and to pay the arrears from 11.10.2017.

For Petitioner ... Mr.P.Balamurugan
for Ms.R.S.Maitreya
For Respondents ... Mr.S.Silambanan
Additional Advocate Genera
Assisted by Mr.T.Chezhiyan
Additional Govt. Pleader for R1 & R2
Mrs.P.Shanthi for R3

ORDER

This Writ Petition has been filed to quash the records pertaining to order passed by third respondent vide his proceedings in Na.Ka.No.H1/2798/2019 dated 23.12.2019 and consequently to direct the respondents to revise the scale of pay as per the G.O.(2D) No.62 (Labour and Employment (J1) Department dated 11.10.2017.



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2. Mr.P.Balamurugan, the learned counsel for the petitioner claims that the petitioner is working as Heavy Duty vehicle driver in Tiruppur Corporation (the then Tiruppur Panchayat) from 24.10.2010; the petitioner continued to serve in the said Panchayat but he was not given with revised scale of pay as fixed by virtue of G.O.(2D) No.62 (Labour and Employment (J1) Department dated 11.10.2017.

2.1 In this regard attention of the Court was attracted to the judgment of the Division Bench held in ***R.Rajaselvan Vs. The State of Tamil Nadu, Represented by its Principal Secretary, Public works Department & others*** made in ***W.P.(MD)No.24081 of 2018*** wherein it is held as under:

“ SUMMARY OF DIRECTIONS:

28. We issue the following directions:

*(1) We direct the State of Tamil Nadu to follow strictly the law laid down by the Hon'ble Supreme Court in **State of Punjab and others vs. Jagjit Singh and Others [2017(1) SCC 148]** and **Sabha Shanker Dube vs. Divisional Forest Officer and others [2018(14) Scale 765]** that daily wage employees, casual and contract employees are entitled to draw wages at the minimum of the pay scales, which are applicable to the similarly placed regular employees.*



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(2) In order to comply with the law laid down by the Hon'ble Supreme Court by upholding the principle 'equal pay for equal work',

(a) We direct the Public Works Department to pay wages to the NMRs, daily wage employees, temporary employees and casual workers at the minimum of the pay scale, which are applicable to the regular employees holding the same post across the State.

(b) The Public Works Department is directed to pay the salary of sweepers employed by the High Court and the State viz., Rs.18,843/- to the NMRs both civil and electrical including radio section/wing across the State with effect from 01 February, 2019. In short, the NMRs, daily rated, casual and temporary workers across the State must be paid Rs.18,843/- per month as wages, which is the present salary of a sweeper/scavenger in the State Government service and the High Court service.

(c) We direct the first respondent to issue a Government order on or before 22 February, 2019 sanctioning the minimum scale of pay to the NMRs irrespective of classification, daily wage employees and casual workers across the State, which should be the pay scale of the sweeper/scavenger in Government/High Court service.

(d) We direct the fourth respondent to issue a Government Order prescribing the wage structure of temporary/casual/daily wage employees of all the Corporations, Municipalities and Panchayats across the State, taking into account the pay scale of regular employees under the respective Local Body, by 22 February, 2019.

(e) We direct the State to dispense with the present practice of engaging NMRs through Contractors. The Public Works Department must maintain a register containing the names of NMR, casual, temporary and daily wage employees.



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(f) The salary shall be credited by RTGS/ECS in the respective account of the NMR/casual/temporary/daily wage employees.

(g) The Government must introduce Bio-metric system for recording the attendance of NMRs and other daily rated/temporary workers across the State as expeditiously as possible. Insofar as the High Court Bench at Madurai is concerned, Bio-metric system shall be introduced with effect from 01 April, 2019.

(h) We direct the State to establish a full-fledged 24x7 dispensary/hospital inside the Campus of the High Court Bench at Madurai. The building for the Hospital should be constructed in such a way that even the local people must be in a position to avail the medical facilities from the said hospital. We direct the respondent No.15 to pass appropriate orders in the matter on or before 22 February, 2019.

(i) We direct the State to establish a separate wing for the maintenance of the High Court Bench at Madurai under an Executive Engineer, whose office must be constructed and located inside the Campus.

(j) We direct the Engineer-in-Chief, Public Works Department, to approve the proposal dated 14 December, 2018 submitted by the Public Works Department, Madurai, for changing the head of account as "Judges Bungalow wages" on or before 22 February, 2019."

2.2 The petitioner claims that he would get the benefit of G.O.(2D) No.62 (Labour and Employment (J1) Department dated 11.10.2017 and the above judgment. Hence, the respondents should be directed to revise the scale of petitioner accordingly.



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3. Mr.S.Silambanan, the learned Additional Advocate General, submitted that the petitioners are not employees of the third respondent corporation; the petitioners are outsourced from Amritha Educational and Charitable Trust, Tiruppur from the year 2017 before the issuance of the G.O.(2D) No.62 (Labour and Employment (J1) Department dated 11.10.2017; it is the outsourcing agency which is paying the salary to the petitioners and hence the petitioners are not the employees of the corporation.

4. Though the petitioners are outsourced from an agency as per the submission of the learned Additional Advocate General, it is held by the Hon'ble Supreme Court in ***State of Punjab and others Vs. Jagjit Singh and others [2017(1) SCC 148]*** that daily wage employees, casual and contract employees are entitled to draw wages at the minimum of the pay scales, which are applicable to the similarly placed regular employees. If the petitioner is aggrieved of not getting minimum wages as per the statues and Government Orders issued every now and then, it is up to him to claim appropriate remedy before the appropriate forum by initiating proper legal



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actions.

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5. With the above observations, this writ petition is disposed. No costs.

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Index: Yes / No
Speaking order / Non-speaking order
bkn

To:

1. The Secretary,
Municipal Administration and Water Supply Department,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The District Collector,
Tiruppur District,
Tiruppur.
3. The Commissioner,
Tiruppur Corporation,
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R.N.MANJULA ,J.

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