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W.P.Nos.21296 to 21298 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.Nos.21296 to 21298 of 2017

W.P.No.21296 of 2017:

M.Malarkodi

... Petitioner

Vs.

1. The Government of Tamil Nadu
rep. by the Secretary to Government,
Municipal Administration & Water Supply Department,
Fort St. George,
Chennai - 600 009.
- 2 Corporation of Greater Chennai,
rep. by its Commissioner,
Park Town,
Chennai - 600 003.
- 3 The Assistant Commissioner,
Corporation of Greater Chennai,
Zone-XI,
Valasaravakkam,
Chennai - 600 087.

... Respondents



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W.P.No.21297 of 2017:

P.Manoharan

... Petitioner

Vs.

1. The Government of Tamil Nadu
rep. by the Secretary to Government,
Municipal Administration & Water Supply Department,
Fort St. George,
Chennai - 600 009.

2 The Commissioner,
Corporation of Greater Chennai,
Ribbon Building,
Park Town,
Chennai - 600 003.

3. The Assistant Commissioner,
Corporation of Greater Chennai,
Zone-XI,
Valasaravakkam,
Chennai - 600 087.

... Respondents

W.P.No.21298 of 2017:

V.Mani

... Petitioner

Vs.



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1. The Government of Tamil Nadu
rep. by the Secretary to Government,
Municipal Administration & Water Supply Department,
Fort St. George,
Chennai - 600 009.
 2. The Commissioner,
Municipal Administration & Water Supply Department,
Chepauk,
Chennai - 600 005.
 3. The Commissioner,
Thiruverkadu Municipality,
Chennai - 600 077.
 4. The Director,
Local Fund Audit,
571, Anna Salai,
Nandanam,
Chennai - 600 035.
- ... Respondents

Prayer in W.P.No.21296 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 2 and 3 to consider and dispose of the Petitioners representation dated 10.09.2016 and to sanction family pension to the petitioner with arrears of pension within a time frame.



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Prayer in W.P.No.21297 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd and 3rd respondents herein to correct the Service Register of the petitioner to the effect that his services had been regularised with effect from 01.10.2001 and to fix his pay accordingly from that date onwards and consequently pay the difference in salary after deducting the amount already paid to him within a time frame.

Prayer in W.P.No.21298 of 2017: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 2 and 3 to consider and dispose of the Petitioners representation dated 27.03.2016 and to sanction family pension to the petitioner with arrears of pension within a time frame.

For Petitioners : Mr.V.Sivaraman
in all petitions

For Respondents : Mr.L.S.M.Hasan Fizal,
Additional Government Pleader
for R1 in W.P.Nos.21296 and 21297 of 2017
and
for R1, R2 and R4 in W.P.No.21298 of 2017



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Mr.S.Gopinathan,
Standing Counsel for R3
in W.P.Nos.21296 and 21297 of 2017

Mr.R.Mohandoss,
Standing Counsel for R 3
in W.P.No.21298 of 2017

COMMON ORDER

W.P.Nos.21296 and 21298 of 2017:

These petitions have been filed to direct the respondents to consider and dispose of the representation of the petitioners and to sanction family pension to the petitioner with arrears of pension within a time frame.

2.It is the case of the petitioner in W.P.No.21296 of 2017 that the petitioner's husband worked as Sweeper in Maduravoyal Town Panchayat on daily wage basis. In term of G.O.Ms.No.21, Municipal Administration and Water Supply Department dated 23.02.1998, the service of the husband of the petitioner was regularised with effect from 23.02.2006. However, the



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husband of the petitioner is entitled to regularization on completion of three years of service as per G.O.Ms.No.84, dated 21.05.1998. While in service, the petitioner's husband died. In the year 2011, the said panchayat got merged with the Corporation of Chennai and the employees of the said Panchayat have become the employees of the Corporation. The petitioner submitted a representation to the respondents requesting them to grant family pension, but the respondents did not consider the same till date. Hence, this Writ Petition.

3.It is the case of the petitioner in W.P.No.21298 of 2017 that the petitioner joined as casual worker on consolidated pay of Rs.100/- per month for the maintenance of overhead tank / watchman on 01.08.1989. The 3rd respondent appointed the petitioner by proceeding dated 02.08.2000. In term of G.O.Ms.No.21, Municipal Administration and Water Supply Department dated 23.02.1998, the petitioner was regularised with effect from 23.02.2006. The respondents have covered the petitioner under the Contributed Provident Fund, namely, New Pension Scheme and denying the



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Old Pension Scheme. The petitioner attained the age of superannuation on 31.12.2016. The petitioner submitted his representation dated 27.03.2017 to cover him under the old pension scheme which has not been responded till date. Hence, this Writ Petition.

4.The learned counsel for the petitioners would submit that if a period of two weeks time is granted, the respondents would consider the representation of the petitioners and pass appropriate orders.

5.Considering the submission of the learned counsel for the petitioners, the petitioners are directed to give fresh representation to the respondents within a period of two weeks and thereafter, the respondents are directed to consider the representation of the petitioners and pass appropriate orders on merits and in accordance with law within a period of four weeks from the date of receipt of copy of this order. Accordingly, these Writ Petitions are disposed of. No costs.



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6.It is the case of the petitioner that the petitioner joined the post of Sweeper in Maduravoyal Town Panchayat on 07.10.1998 on consolidated salary of Rs.900/- per month in terms of G.O.(Ms.).No. 84, Panchayat Administration and Water Supply Department, dated 21.05.1998. As per the said Governmental Order, he was entitled to regularization of service with time scale of pay on completion of three years from the date of appointment. However, the service of the petitioner was regularised only on 23.02.2006 as per G.O.Ms.No.21, dated 23.02.2006 whereas the petitioner's service should have been regularised with effect from 01.10.200 and he should have been paid time scale of pay from the date of regularization. The petitioner had given a representation dated 21.12.2016 to the respondents 2 and 3 requesting him to correct the Service Register to the effect that his service had been regularized with effect from 01.10.2021 and for payment of difference in salary. The said representation was not considered by the respondents, Hence, this Writ Petition.



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7.Heard the learned counsel appearing on either side and perused the papers.

8.In the orders of this Court in W.P.No.8669 of 2017, dated 16.08.2022, at Para 5 this Court held as follows:

“5.In such circumstances, the following order is passed:-

(i)The concerned authority shall immediately consider the representation dated 15.12.2016 made by the Petitioner in terms of G.O. (Ms) No. 142, Municipal Administration and Water Supply (TP.1) Department, dated 23.09.2015 including ascertaining as to whether the petitioner has been granted the entire benefits claimed;

(ii)if it is found that any details or supporting documents satisfying the eligibility criteria for the benefits claimed has not been produced, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 clear working days in that regard;

(iii)in the event of not being satisfied with the requirements thereafter, an enquiry shall be conducted affording opportunity of personal hearing to the petitioner to explain his position in that regard;



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(iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated to the petitioner by 31.10.2022 under written acknowledgment;

(v) if the Petitioner is found entitled to the claim made, the eligible amount of arrears of differential amount of monetary benefits after adjusting any payment already made along with working-sheet showing its calculation, shall be paid within a period of three months from the date of passing of such order, apart from revised pay for future months on the due dates; and

(vi) the report of completion of the aforesaid exercise shall be filed before the Registrar (Judicial) of the Court

In fine, the Writ Petition is disposed on the aforesaid terms. No costs."

9. Having regard to the abovesaid legal position, the obligation is cast upon the concerned Authorities to have on their own accord extended the benefits to all the similarly placed persons, if they are eligible for the same. Accordingly, this Writ Petition is disposed of. The respondents 2 and 3 are directed to consider that if the petitioner is found entitled to the claim made, the eligible amount of arrears of differential amount of monetary benefits after adjusting any payment already made along with working-sheet



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showing its calculation, shall be paid within a period of three months from the date of passing of such order, apart from revised pay for future months on the due dates. No costs.

22.11.2023

Index :Yes/No
Speaking order :Yes/No
Neutral citation :Yes/No
mps

To

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Government of Tamil Nadu,
Municipal Administration & Water Supply Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner,
Corporation of Greater Chennai,
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4. The Commissioner,
Municipal Administration & Water Supply Department,
Chepauk,
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5. The Commissioner,
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V.BHAVANI SUBBAROYAN, J.

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