



WP.No.11932/2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.09.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.11932/2017

Tmt.Kumari

... Petitioner

Versus

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
Greater Chennai Corporation
Ripon Building, Park Town
Chennai 600 003.

3.The Assistant Commissioner
Greater Chennai Corporation
Zone XV, 120, Rajiv Gandhi Salai
Sholinganallur, Chennai 600 119.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the 2nd and 3rd respondents herein to correct the Service Register of the petitioner to the effect that her services had been regularised with effect from 01.08.2003 and



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to fix her pay accordingly from that date onwards and consequently pay the difference in salary after deducting the amount already paid to her within a time frame.

For Petitioner	:	Mr.K.M.Ramesh Senior counsel for Mr.S.Apunu
For R1	:	Mr.K.Surendharan, AGP
For RR 2 & 3	:	Mr.S.Gopinathan

ORDER

- (1) The writ petition has been filed in the nature of a mandamus seeking a direction to the respondents 2 and 3 to correct the Service Register of the petitioner to the effect that her services had been regularised with effect from 01.08.2003 and to fix her pay accordingly from that date onwards, to pay the difference in salary after deducting the amount already paid to her within a time frame.
- (2) The petitioner had been sponsored by the Employment Exchange for the post of Sweeper in Sholinganallur Town Panchayat and was appointed by an order dated 01.08.2000 in terms of G.O.Ms.No.84, Panchayat Administration and Water Supply Department, dated 21.05.1998 on a consolidated salary of Rs.900/- per month. The



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petitioner claimed that she was entitled to be regularised into regular time scale of pay, but claimed that she was paid only the consolidated salary contrary to the provisions in G.O.Ms.No.84, dated 21.05.1998 by which she claimed that on completion of three years of service on and from 01.08.2003 onwards, she should have been regularised. The petitioner had earlier filed CP.No.72/2008 against the Sholinganallur Town Panchayat claiming difference in salary between 01.08.2003 till the date of regularisation namely 23.06.2006. That was filed before the I Additional Labour Court, Chenani and that was allowed by an order dated 22.10.2008. Thereafter, the Sholinganallur Town Panchayat was merged with the Corporation of Chennai in the year 2011. She then filed an Execution Petition to execute the order passed in CP.No.72/2008. It had been stated that only after attachment of the properties, was the amount paid. The petitioner claims that had she been regularised earlier, she would have the benefit of the old pension scheme. In this regard, she had given a representation and had filed a writ petition in the nature of a mandamus seeking regularisation with effect from 01.08.2003.



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- (3) A counter affidavit had been filed by the 3rd respondent herein, wherein the claim of the petitioner that her services should have been regularised in the year 2003, had been questioned and had been denied and disputed. It had been stated that the Corporation of Chennai had taken over the administration of Sholinganallur Town Panchayat. It had been stated that only thereafter orders have been passed for regularisation. It was also contended that only after the approval from the 1st respondent, necessary orders could be passed.
- (4) A similar issue had come up for consideration before a learned Single Judge in WP.No.8667/2017 [***Samson V. The Government of Tamil Nadu rep.by its Secretary to Government, Municipal Administration and Water Supply Department, Chennai and Others***]. The learned Single Judge, after examining the facts therein, which are quite similar to the facts of this case, had finally passed the following order:-

"5.In such circumstances, the following order is passed:~



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(i) *the concerned authority shall immediately consider the representation dated 28.10.2016 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;*

(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*



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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."

(5) A similar order accrues to the petitioner herein and the same directions are issued to the respondents. The 3rd respondent shall also, as directed, file a Report of completion of the exercise mentioned therein before the Registrar [Judicial] of this Court. The same time limit as stated above in the earlier order, is also maintained in the present order.

(6) The writ petition stands **disposed of**. No costs.



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Internet : Yes

To

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C.V.KARTHIKEYAN, J.,

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