



W.P. No.17501 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P.No.17501 of 2017
and W.M.P.No.18984 of 2017**

1. P.Dhanamma
2. A.Prabakar
3. Adhilakshmi
4. V.Palani
5. J.Immanuel
6. K.Raghavan
7. M.Jothi
8. G.Mariyamma
9. G.Chinnammal
10. R.Sivagami
11. Thiruppal
12. B.Ramanaiah
13. M.Kumar
14. S.Begum
15. M.Rajagopal
16. L.Babu

C/o/General Secretary,
Ooraga Ullatchi Sugathara Podhu
Paniyalargal Sangam, AITUC
No.2, Kovoor Vaithiyanathan Street,
Chintadripet, Chennai-2.
Petitioner

...

-VS-

1. The Presiding Officer
II Addl. Labour Court,
High Court Compound,
Chennai-104.



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2. The Commissioner
Corporation of Chennai,
Park Town, Chennai-3.

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, Calling for the records from the files of the 1st respondent in C.P.Nos.742 to 748 750 751 and 897 to 903 of 2007 and quash the impugned Common Order dated 29.5.2017 and consequently direct the 1st respondent to permit the petitioners to withdraw the amount lying in deposit to the credit of the respective Claim Petitions.

For Petitioners : M/s.K.M.Ramesh

For Respondents : Mr. S.Gopinathan R2
R1 - Court

ORDER

The petition has been filed seeking to quash the common order passed by the first respondent vide order dated 29.05.2017 in C.P.No.742 to 748, 750, 751 and 897 to 903 of 2007 dismissing the claim petitions and for consequential directions.

2. It is the case of the petitioners that earlier the petitioners were working in the erstwhile Ambattur Municipality. As of now, the petitioners are working with the second respondent and they were appointed during the year 1998 and 2002 respectively and they were paid consolidated salary of Rs.1000/- per month. The Commissioner of Municipality vide letter dated 10.08.2002



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addressed to the Commissioner for Municipal Administration stated that

financial position of the Ambattur Municipality is sound and satisfactory and that 233 sweepers including the petitioners herein can be granted time scale of pay in accordance with G.O.ms.No.71 dated 05.05.1998. However, the petitioners were not paid time scale of pay and were continued to be paid consolidated salary. As the petitioners are entitled to time scale of pay of Rs.2550-3200 from 01.01.2002 and 01.08.2003 respectively on completion of three years and 1 ½ years of service from the date of joining, they filed claim petitions claiming the difference between time scale of pay and consolidated salary paid to them from 01.01.2002 to 28.02.2006 in respect of petitioners 1 to 9 in the sum of Rs.1,67,474/- each and Rs.93,937/- in respect of petitioners 10 to 16 each against the Commissioner, Ambattur Municipality. After receipt of the notice, the Commissioner, Ambattur Municipality did not appear before the Labour Court. The Labour Court, therefore, passed an ex-parte order vide order dated 29.11.2008. Challenging the same, the second respondent filed writ petitions in W.P.nos.29565 to 29572 of 2012 and 29608 to 29615 of 2012. This Court vide order dated 28.06.2013 allowed the writ petitions and restored the claim petitions to the file of the first respondent with a further direction to dispose of the claim petitions within a period of three months. In the meanwhile, the hearing in Rev. Appl.(MD) No.87 of 2014 etc., batch was over



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before the Full Bench of this Hon'ble Court during the month of 23.04.2017

and orders were reserved. However, the first respondent suo moto advanced the hearing of the claim petitions to 29.05.2017 from 08.06.2017 without any notice to the authorized representative of the petitioners and on the same day has passed the common impugned order dismissing the claim petitions on merits.

3. The learned counsel for the petitioners submitted that in order to substantiate the claim, the petitioner has produced A diary dated 03.05.2017 and 29.05.2017. On 03.05.2017, at the time of hearing, the matter was adjourned to 18.06.2017 for respondents side evidence. However, without issuing any notice, the Labour Court suo moto advanced the hearing and dismissed the claim petition which is not sustainable one and the same is contrary to the procedure and therefore, this Court may remand the matter back to the Labour Court and allow this petition.

4. The learned Counsel appearing for the respondent submitted that as per the decision rendered by the Hon'ble Full Bench of this Court in WP.No.(MD).1083/2012 and W.A.(MD).No.555/2010 (2013 (6) CTC 593), the Labour Court has rightly dismissed the claim petitions filed by the petitioners,



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which cannot be interfered with.

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5. Heard the learned counsel for the petitioner and the learned Counsel appearing on behalf of the first respondent and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the petitioners have filed claim petitions before the Labour Court claiming their benefits and the same was dismissed. The petitioners have produced the "A Diary". On perusal of the same, it is seen that the Labour Court has adjourned the matter on 08.06.2017 for respondent's side evidence. However, without any application of mind or without issuing any notice to the petitioners, the Labour Court suo moto advanced the hearing on 29.05.2017 and dismissed all the claim petitions filed by the petitioners, which is unsustainable one and on the sole ground, the impugned order passed by the Labour Court is set aside and this Court remands the matter back to the Labour Court for fresh consideration.

7. The parties are directed to canvas all the points before the Labour Court. The Labour Court shall decide the issue after providing opportunity to the petitioners as well as the respondents on merits and in accordance with law



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within a period of 12 weeks from the date of receipt of a copy of this order,

without influencing any observation made in the impugned order.

8. With the above observation and direction, the writ petition is allowed.

No costs. Consequently, connected miscellaneous petitions are also closed.

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Index: Yes/No

NCS : Yes/No

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M.DHANDAPANI, J.

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