



W.P.(MD).No.1177 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 19.09.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD).No.1177 of 2022**

**and**

**W.M.P(MD)Nos.1025 & 1026 of 2022**

M.Arumugam

... Petitioner

Vs.

1.The Secretary to Government,  
Public Works Department,  
St. George Fort, Chennai - 600 009.

2.The Chief Engineer,  
PWD/ WRO Madurai Division,  
Madurai.

3.The Executive Engineer,  
PWD/WRO, Lower Vaigai Basin-Division,  
Paramakudi, Ramanathapuram District.

4.The Assistant Executive Engineer,  
Paramakudi,  
PWD/WRO, Lower Vaigai Basin-Division,  
Thiruvadanai, Ramanathapuram District.

... Respondents

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarried Mandamus, to call for the records of the impugned cancellation order proceedings Order No.



W.P.(MD).No.1177 of 2022

70(1)/2019/U.Se.Po/thiru.Dated .07.2019 same as illegal and implement the order of the writ petition in WP(MD) No.5450 of 2018, dated 06.06.2018.

*(Prayer amended vide Court order, dated 30.08.2023 in W.M.P(MD)No.17687 of 2023)*

For Petitioner : Mr.H.Velavadhas

For Respondent : Mr.N.Muthu Vijayan  
Special Government Pleader

### **ORDER**

The present writ petition has been filed to call for the records of the impugned cancellation order proceedings Order No. 70(1)/2019/U.Se.Po/thiru.Dated .07.2019 same as illegal and implement the order of the writ petition in WP(MD) No.5450 of 2018, dated 06.06.2018.

2. The petitioner was working as a Scavenger in the third respondent office. For the period from March 2006 to July 2009, he has received a salary of Rs.20/- per month. Thereafter, from August 2009 to April 2015, his salary was increased to Rs.145/- per month. His salary was further increased to Rs.288/- per month from May 2015 to November 2017.



W.P.(MD).No.1177 of 2022

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3. In the meanwhile, Tamil Nadu Government published G.O.Ms.No.385 Finance (Salary Division) Department, dated 01.10.2010, which mandated the regularisation of those Scavangers, who were employed in Government Office and Panchayat Office, either on daily wages or on consolidate pay, who have completed a period of three years in service with a Special Time Scale of Pay Rs.1,300 – Rs.3,000/- + Grade Pay Rs.300/-. It was also mandated that they are entitled to yearly increment and dearness allowance on the basis of their basic pay.

4. As per the said G.O., the petitioner made a representation on 10.01.2018 to the respondents to regularise his service in the third respondent office. However, the same was not considered. Assailing the same, the petitioner has filed WP(MD)No.5450 of 2018 before this Court. This Court allowed the said writ petition on 06.06.2018, directing the respondents as follows:

*“14. In view of the foregoing discussions, this writ petition is disposed of with the following directions:-*

*(1)that the first respondent is directed to consider the request of the petitioner, by way of his*



W.P.(MD).No.1177 of 2022

*representation dated 10.01.2018, in the light of the recommendation with service particulars as forwarded by other respondents and accordingly, take a decision to bring the petitioner under the special time scale of pay as proposed by the Government under G.O.No.385, Finance Department, dated 01.10.2010. Such needful shall be undertaken by the first respondent within a period of ten weeks from the date of receipt of a copy of this order;*

*(2)once such a decision, bringing the petitioner under the special time scale of pay, is taken, it is needless to mention that the pay particulars shall be calculated and the arrears of the same shall be paid to the petitioner within a period of eight weeks thereafter; and*

*(3)there shall be no order as to costs”*

5. Even as per the said order, the respondents did not comply with the same, as a result of which, the petitioner filed a contempt petition in Cont.P(MD)No.822 of 2019. Pursuant to the same, the respondents circulated an order, dated Nil.10.2019 stating that the order passed by this Court in WP(MD)No.5450 of 2018 has been complied with. Recording the same, the aforesaid contempt petition was closed.



W.P.(MD).No.1177 of 2022

6. After perusal of the said compliance order, dated Nil.10.2019, the petitioner came to understand that the respondent has recognized him in the service of Scavanger in the office of the third respondent w.e.f., 20.09.2019, with a Special Time Scale of pay of Rs.4,100/- to Rs.12,500/- Level II. Thereafter, on 06.07.2020 he was granted with an yearly salary increment of Rs.100/-, as a result of which, his monthly salary was increased to Rs.4,200/-.

7. However, this Court in W.P(MD)No.5450 of 2018 specifically directed the 1<sup>st</sup> respondent to consider the petitioner's representation, dated 10.01.2018 in the light of the recommendation with service particulars as forwarded by other respondents and in terms of G.O.No.385, Finance Department, dated 01.10.2010 bringing the petitioner under special time scale of pay. However, vide impugned order, the petitioner has been brought under special time scale of pay only with effect from 20.09.2019. But in view of G.O.No.385, Finance Department, dated 01.10.2010, the respondents ought to have brought the petitioner under time scale of pay with effect from 01.10.2010 i.e., from the date of the said Government Order.



W.P.(MD).No.1177 of 2022

WEB COPY

8. The 4<sup>th</sup> respondent has filed a counter and the learned Special Government Pleader submitted that the petitioner was not appointed as Scavenger on daily wage basis, but only engaged as Scavenger based on work basis. He further submitted that the petitioner was paid with wages for his work on a daily wage basis and he was not paid salary as stated by the petitioner and hence, the casual engagement for few hours cannot be equated as regular appointment against the sanctioned post and hence, the wages on daily wages as misconstrued by the petitioner cannot be accepted and pressed for dismissal of the writ petition.

9. Heard, Mr.H.Velavadhas, learned counsel appearing for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondent. Perused the materials on record.

10. However, on perusal of records, it has become clear that the respondents have considered the fact that the petitioner was working as Scavenger under the office of the Executive Engineer, Paramakudi, PWD/WRO Lower Vaigai Basin-Division, Thiruvadanai, Ramanathapuram District. However, the petitioner was engaged on consolidated basis from 01.03.2006 onwards. The said admission has been made by the respondent in the counter filed by them in W.P(MD)No.5450 of 2018. Having conceded to the fact that



W.P.(MD).No.1177 of 2022

the petitioner was working as Scavenger under Executive Engineer, Paramakudi on consolidated basis from 01.03.2006 onwards, now in this writ petition, the respondents cannot make a somersault by claiming that the petitioner was engaged only casually and he was not appointed in a regular basis. This Court is inclined to quash the impugned order and thereafter, direct the respondents to refix the petitioner's salary under the Special Time Scale of pay with effect from 01.10.2010 with all consequential monetary benefits within a period of twelve (12) weeks from the date of receipt of a copy of this order.

11. In view of the above, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

**19.09.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes  
**gbg/pnm**

To

1. The Secretary to Government,  
Public Works Department,  
St. George Fort, Chennai - 600 009.



W.P.(MD).No.1177 of 2022

2.The Chief Engineer,  
PWD/ WRO Madurai Division,  
Madurai.

**L.VICTORIA GOWRI, J.**

**gbg/pnm**

3.The Executive Engineer,  
PWD/WRO, Lower Vaigai Basin-Division,  
Paramakudi, Ramanathapuram District.

4.The Assistant Executive Engineer,  
Paramakudi,  
PWD/WRO, Lower Vaigai Basin-Division,  
Thiruvadanai, Ramanathapuram District.

Order made in  
W.P.(MD).No.1177 of 2022

**19.09.2023**