



W.P(MD)No.15594 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15594 of 2020

1.M.Murugan

2.R.Ravi

3.P.Mariappan

4.S.Murugesan

5.A.Natarajan

... Petitioners

Vs.

1.The Additional Chief Secretary to the Government,
Finance Department,
Secretariat,
Fort St.George,
Chennai-600 009.

2.The Principal Secretary to the Government,
Backward Classes, Most Backward Classes,
Denotified Communities and
Minorities Welfare Department,
Secretariat,
Chennai-600 009.

3.The Director,
Directorate of Backward Classes Welfare,
Ezhilagam,
Chepauk,
Chennai-600 005.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Letter No.B1/456/2020, dated 20.04.2020 on the file of the third respondent and quash the same as illegal and consequently, for a direction directing the respondents to revise the scale of pay of the petitioners in the pay band of Rs.4800-10000+1300 GP with effect from 15.06.2015 along with consequential monetary benefits and arrears on par with other similarly placed employees (Sweepers) working in School Education Department, Police Department, Medical Department, Judicial Department within the time period stipulated by this Court.

For Petitioners : Mr.T.Aswin Rajasimman
for Mr.T.Lajapathi Roy

For Respondent : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard the learned counsel appearing for the petitioners and the learned Special Government Pleader appearing for the respondents.

2. The writ petitioners herein belong to scheduled caste community. They are also suffering from physical disability. They were sponsored by the employment exchange for being appointed as part time sanitary workers on consolidated pay. Subsequently, they had been brought under special time scale



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of pay. The petitioners want to be placed on par with their counterparts working in the education department. They want to be paid on par with them. Their request was rejected. Challenging the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4. The learned counsel, on instructions, submitted that the petitioners will be satisfied, if their pay is revised on par with their counterparts in the education department notionally with effect from the date of filing of the writ petition and if actual monetary benefits are conferred from the date of this order. The undertaking given by the petitioners through their counsel is placed on record.

5. The respondents have filed the counter affidavit and the learned Special Government Pleader took me through its contents. The learned Special Government Pleader placed considerable reliance on the decision of the



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Hon'ble Apex Court reported in *2022 Live Law (SC) 571 (State of Madhya Pradesh through Principal Secretary Vs. Seema Sharma)*. He pressed for dismissal of the writ petition.

6. I carefully considered the rival contentions and went through the materials on record.

7. The Hon'ble Apex Court in the said decision held that the doctrine of equal pay for equal work could only be invoked when the employees were similarly circumstanced in every way. Mere similarity of designation or similarity or quantum of work was not determinative of equality in the matter of pay scales. The Court has to consider all the relevant factors such as the mode of recruitment, qualification for the post, the nature of work, the value of work, responsibilities involved and various other factors. Now let us test the petitioner's case by applying the aforesaid parameters. The petitioners are working in the hostel run by the backward class welfare department. The sanitary workers working in the education department as well as the petitioners were sponsored by the employment exchange. Both of them were appointed initially only on consolidated basis. Their educational qualifications are identical. The post of sanitary worker is a Class IV post in Special Rules for



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Tamil Nadu Basic Service. The categorical assertion of the petitioners is that nature as well as the value of work carried out by the sanitary workers in the education department as well as the backward class department is one and the same. In the counter affidavit, the respondents have not demonstrated as to how both are differently placed. Except contending that the petitioners cannot invoke the principle of 'equal pay for equal work', no other material has been shown. The petitioners are not seeking parity with the sanitary worker working in the Government hospitals.

8. I am more than satisfied that in every respect, the petitioners are similarly circumstanced as their counter parts working in the education department. The learned counsel appearing for the petitioners drew my attention to the order dated 25.01.2018 made in W.P.(MD)No.17663 of 2014. The petitioners in the said writ petition sought parity with the other sanitary workers working in the education department. The petitioner's therein had been appointed under G.O.(Ms.)No.47, School Education (R.1) Department, dated 02.03.2012 on special time scale of pay in the education department. Their contention was that they are doing the very same work like the other sanitary workers in the education department and that therefore, they alone cannot be selectively placed in the special time scale of pay. They questioned the



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offending clause in the G.O. I allowed the writ petition and directed that the petitioners herein should also be placed in the regular time scale of pay. The order was put to challenge in W.A.(MD)No.1584 of 2018. But the Hon'ble Division Bench dismissed the writ appeal. Thereafter, the Government implemented the said order.

9. I am more than satisfied that the constitutional mandate set out in Article 14 of the Constitution of India is clearly breached in this case. The sanitary workers in both the departments are carrying out the very same kind of work. Their roles and responsibilities are identical. Nature and value of work is also same. In these circumstances, the order impugned in the writ petition is set aside. The petitioners shall be placed in the regular time scale of pay as that of the sanitary workers working in the education department. The petitioners would be entitled to the benefit of revision and placement in the higher scale of pay notionally from the date of filing of this writ petition with monetary benefit from the date of passing of this order. The respondents are directed to issue appropriate orders in this regard within a period of eight weeks from the date of receipt of a copy of this order.



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10. The Writ Petition is allowed. No costs.

06.04.2023

Index : Yes / No

Internet : Yes/ No

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2.The Principal Secretary to the Government,
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G.R.SWAMINATHAN, J.

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