



W.P.(MD)Nos.24056, 24057 & 24059 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.24056, 24057 & 24059 of 2019

T.Krishnamani	...	Petitioner in W.P.(MD)No.24056 of 2019
L.Nevash	...	Petitioner in W.P.(MD)No.24057 of 2019
K.Asubathi	...	Petitioner in W.P.(MD)No.24059 of 2019
Vs.		
The Principal Secretary, Kanyakumari District @ Nagercoil.	...	Respondent in both the Writ Petitions

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, to call for the records passed by the respondent herein in Na.Ka.Nos.Va5/7287/2017-1, 2 & 3, dated 08.03.2019 and quash the same and consequently direct the respondent herein to disburse the payment on daily wages basis with effect from 09.02.2016.



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In both Writ Petitions:

For Petitioners : Mr.M.Padmavathy

For Respondent : Mr.M.Lingadurai,
Government Advocate

COMMON ORDER

These writ petitions are filed challenging the order passed by the respondent, dated 08.03.2019 with consequential relief to disburse the payment to the petitioners, with effect from 09.02.2016.

2. Heard Mr.M.Padmavathy, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Government Advocate appearing for the respondent. Perused the material documents placed on record.

3. The contention of the petitioners is that they had served as Panchayat Over Head Tank Operators, from 2006 onwards. The President of the Panchayat had engaged the petitioners from 2006 onwards on the basis of quotation. The petitioners would submit the quotation to carry on the work and the amount would be paid based on the quotation circulated by the petitioners.



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4. The further contention of the petitioners is that the daily wage employees, namely Chinnappu, T.Chellasamy, M.Mani, C.Raja and S.Chandraekaran were absorbed in Corporation service as permanent employee with time scale of pay, based on the G.O.Ms.No.158 Municipal Administration and Water Supply (WS4) Department, dated 19.10.2013. Therefore, the incumbent post has become vacant. The President of the said Panchayat, based on the resolution of the Municipal Council Resolution No.152, dated 09.02.2016 decided to appoint these petitioners for the post of daily wage employee in the said vacancies and order was also issued on 09.02.2016. But the Panchayat President has paid the wages based on the quotation, without granting daily wages to the petitioners.

5. The petitioners submitted that if the petitioners are granted employment under daily wage basis, they will be considered as full-time employee. But the Panchayat President is paying wages on quotation basis even after issuing the appointment order in the year 2016 as daily wages employee. The apprehension of the petitioner is that they would be considered as part time



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employee, if they are continuing with the payment on quotation basis. Aggrieved by the same, these petitioners have submitted a representation to the District Collector, Kanyakumari District @ Nagercoil.

6. After considering the case of these petitioners, the District Collector has passed the impugned order, where it is stated that the Panchayat President without getting prior approval from the appropriate authorities had appointed the petitioners. Even if the case of the petitioners ought to be considered for bringing them under consolidated pay as per G.O.Ms.No.76 Rural Development and Panchayat Raj (Pa.a.5) Department, dated 05.07.2017 the Panchayat President ought to have obtained prior permission from the Government. Hence, the District Collector has rejected the claim of the petitioner. Aggrieved over the impugned order the present writ petition is filed.

7. It is submitted that still these petitioners are working as Over Tank Operators. But the Panchayat President is paying wages based on the quotation only. It is seen the District Collector has not directed the Panchayat President to disengage the petitioners and the Panchayat President has not disengaged them



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and they are continuing in the service based on quotation payment. Even though, prior permission was not obtained, the Government is empowered to grant ratification to engage the petitioners. Therefore, this Court is of the considered opinion that the Government ought to consider the petitioner's case. Accordingly, the impugned order, dated 08.03.2019 passed by the respondent is hereby set aside. The District Collector shall refer the case of the petitioners in the light of the G.O.Ms.No.76 Rural Development and Panchayat Raj (Pa.a.5) Department, dated 05.07.2017 to the Government and the Government shall consider the case of the petitioners in the light of G.O.Ms.No.76 and shall pass orders within a period of 12 weeks from the date of receipt of a copy of the order.

8. With these observations and directions, these Writ Petitions are allowed. No Costs.

Index : Yes / No
Internet : Yes
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To
The Principal Secretary,
Kanyakumari District @ Nagercoil.



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S.SRIMATHY, J

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**Common Order made in
W.P.(MD)Nos.24056, 24057 &
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