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W.A.No.262 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE K. KUMARESH BABU

W.A.No.262 of 2022 and

CMP No.1899 of 2022

1. The Government of Tamil Nadu,
Department of Home, rep. by its Secretary,
Secretariat, Chennai-9.
2. The Director, Fire and Rescue Services,
17, Rukmani Lakshmipathy Salai,
Egmore, Chennai-8.
3. The District Officer, Fire and Rescue Services,
Dharmapuri, Dharmapuri District.
4. Fire and Rescue Services Station,
Rep. by its Station Officer, Pappireddipatti,
Dharmapuri District.

... Appellants

Vs.

1. C.Sekar
2. S.Saritha
3. M.Usha

... Respondents



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PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act to set aside the order dated 16.08.2021 passed in W.P.No.9060 of 2020 and allow the writ appeal.

For Appellants : Mr.V.Manoharan, Addl.Govt.Pleader
for Mr.Stalin Abhimanyu, Addl.Govt.Pleader

For Respondents : Mr.D.Muthukumar
for M/s Paul and Paul

JUDGMENT

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This Intra Court appeal has been filed by the Government, as against the order passed by the writ Court in W.P.No.9060/2020 dated 16.08.2021, by directing the appellant to extend the time scale of Rs.1300-300 + 300 GP to the respondents herein.

2. The brief facts leading to the filing of the writ appeal is as follows.

The respondents herein were appointed to the post of Toilet Cleaner, Cleaner and Water Taker on 28.08.2017 on temporary basis, with a monthly salary of Rs.710/-. Subsequently, the appellant had issued termination order, dated 30.04.2020. The respondents had given representations dated



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15.06.2020 to the appellants requesting to give time scale of pay of Rs.1300-

300 with Grade Pay of Rs.300/-, as per G.O.Ms.No.14, Home Police 17)

Department dated 05.01.2018, which was granted similarly placed persons, but their names have not found in the said government order. However, the appellants not considered their request and hence they fled the writ petition seeking time scale of pay and it was allowed by the learned Single Judge. Therefore, challenging the order of the writ court, this present writ appeal has been filed.

3. The writ court has considered the contention of both side and accepted the contention of the respondents herein that similarly placed persons have been brought into time scale of pay, as per G.O.Ms.No.49, Personnel, dated 14.05.2002 and hence, quashed the impugned termination order and gave direction as stated supra.

4. The learned Additional Government Pleader submitted before this court that the respondents herein were not completed three year of service, while issuing the G.O.Ms.No.14, dated 05.01.2018, whereas, similarly



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placed persons had completed 10 years of service in the department.

Therefore, the Government has considered the request made by the Department and sanctioned special time scale of pay of Rs.1300-3000 + G.P. Rs.300/- to those persons. In such circumstances, the respondents are not entitled for time scale of pay, as has been granted to the similarly placed persons.

4.1. He further submitted that, at the time of appointment, the said employees, classified under part-D, were not engaged by the Department and they have been filled up in the said basic services only by the contract and outsourcing, as per the government order. Therefore, the prayer sought for by the respondents cannot be granted.

5. At this juncture, the learned counsel for the respondents replied that, the respondents were engaged only by the Department and they had completed three years of service at the time of filing the writ petition and also similarly placed persons were granted special time scale of pay, but the respondents alone were treated differently. The learned counsel further



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submitted that, the respondents are still continuing their service in the Department and now, they have completed six years of service. Therefore, they are entitled to get time scale of pay, as that of the similarly placed persons.

6. Now the point for consideration is whether the respondents are entitled to bring them into a time scale of pay, as per the G.O.Ms.No.14, dated 05.01.2018 or not.

7. On perusal, the materials reveals that G.O.Ms.No.14, dated 05.01.2018 was issued granting special time scale of pay of Rs.1,300-3000 + Grade Pay Rs.300/- to the 552 part time sweepers working in the Fire and Rescue Services Department, subject to the condition that the sweepers should have served minimum three year of service in consolidated pay or daily wages in the government offices or local bodies. In the said Government order, there was a specific direction to the Department to follow G.O.Ms.No.49, dated 14.05.2002, in future, because, in G.O.Ms.No.49, the department was directed to fill up the posts under D-Category only by



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contract and outsourcing. Further, it is the contention of the appellant that, the above G.O.Ms.No.14, dated 05.01.2018 was issued as one time measure, because the employees covered under the said G.O.14, had completed more than 10 years of service and hence, the government, after examination, had granted time scale of pay to that employees alone.

8. It is the contention of the respondents that, though there was a direction to fill up the posts for basic works only through contract and outsourcing method, the respondents were appointed by the Department and till now, they are continuing the service, based on the interim direction given by this court. Therefore, considering their service and also the fact that the similarly placed persons 7 in numbers were granted time scale of pay, the writ court has rightly granted relief to the respondents.

9. At this juncture, it is clarified by the appellant that, only amendment was issued to G.O.14, dated 05.01.2018, (vide G.O.Ms.No.277, dated 15.07.2020 and G.O.Ms.No.297, dated 01.09.2020), substituting the names of six persons (mistakenly recorded as 7 persons in the order of the



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writ court), and no relief was granted to the similarly placed persons, as alleged by the respondents.

10. Considering the above submission and also upon perusing the G.O.Ms.No.14, dated 05.01.2018, G.O.Ms.No.49, dated 14.05.2002, we are in agreement with the learned counsel for the appellant. Further, when the government has taken a policy decision, vide G.O.Ms.No.49, dated 14.05.2022 to recruit the employees for the basic work, only by contract and outsourcing method, the respondents cannot seek to grant special time scale of pay as they are working more than three years. Therefore, we are of the view that the order passed by the learned single judge is liable to be set aside.

11. However, considering the fact that, from 01.09.2017, the respondents are continuing in service as part time workers, no prejudice would be caused to the appellant to consider the claim of the respondents in accordance with law.



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12. Accordingly, the appellant/Department is directed to consider the claim of the respondents in accordance with law and in the light of G..Ms.No.14, dated 05.01.2018 and consequent memorandum, dated 22.01.2018, issued by the Director, Fire and Rescue Services Egmore, Chennai 600 008, and take appropriate decision, within twelve weeks from the date of receipt of a copy of this order.

13. With the above direction, this writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.J.) (K.B.J.)
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