



W.P.No.27301 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

CORAM

THE HONOURABLE Mrs. JUSTICE R.KALAIMATHI

W.P.No.27301 of 2012

and

M.P.No.2 of 2012

1.M.Gopi

2.R.Kalaivani

3.G.Babu

4.M.Senthil Kumar

5.S.Thirumurugan

6.J.Jegadeesan

...Petitioners

vs.

1. The Secretary to the Government of Tamil Nadu  
Municipal Administration and Water Supply Department  
Chennai-9.

2. The Commissioner  
Municipal Administration  
Chennai-5.

3. The Commissioner  
Komarapalayam Municipality  
Namakkal District.

... Respondents

**PRAYER:** Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, to call for the



W.P.No.27301 of 2012

records pertaining to the order having reference Na.Ka.No.445/06/H1 dated 01.03.2006 passed by the 3<sup>rd</sup> respondent and quash the same in so far as it regularizes the services of the petitioners prospectively and consequently direct the respondents to regularize the services of the petitioners by bringing them on the time scale of pay with effect from August 2001 as provided under G.O.Ms.No.101 Municipal Administration and Water Supply (Na.Pa.III) Department, dated 30.04.1997.

For Petitioners : Mr.C.Pushparaj for  
E.P.Senniyangiri.

For Respondents : Mr.S.Rajesh  
Government Advocate.

### **ORDER**

The order in Na.Ka.No.445/06/H1 dated 01.03.2006 passed by the 3<sup>rd</sup> respondent is under challenge.

2. Heard Mr.C.Pushparaj, learned representing counsel for the petitioners and Mr.S.Rajesh, learned Government Advocate appearing for the respondents.

3. The petitioners



W.P.No.27301 of 2012

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are working as sanitary workers. They were originally appointed against the post of Sanitary workers sanctioned by the Director of Town Panchayat, pursuant to the G.O.Ms.No.101, Municipal Administration and Water Supply (Na.Pa.III) Department dated 30.04.1997. The petitioners would further submit that their services were regularised by the 3<sup>rd</sup> respondent in Na.Ka.No.445/06/H1 dated 01.03.2006 with effect from 23.02.2006 prospectively.

4. The grievance of the petitioners is that their services should have been regularised in time scale of pay from August 2001. Hence this writ petition.

5. Mr.S.Rajesh, learned Government Advocate appearing for the respondents would vehemently argue that as per G.O.Ms.No.21, Municipal



W.P.No.27301 of 2012

Administration and Water Supply (MC3) Department, dated 23.02.2006, the regularisation of services shall take effect only from the date of G.O. i.e. 23.02.2006 and not from the date on which they had completed three years of service from the date of their initial appointment into the service.

6. No doubt, the petitioners were appointed to the post of Sanitary workers by the 3<sup>rd</sup> respondent as per the proceedings in Na.Ka.No.3092/97/H1 dated 28.08.1998, on consolidated wages of Rs.1000/- per month. As per G.O.Ms.No.101 dated 30.04.1997, their services may be regularised after a period of three years.

7. Whether G.O.Ms.No.21 dated 23.02.2006 would apply in the case of regularisation of services of Sanitary workers was decided by the Hon'ble full Bench of this Court in W.P.(MD)No.1083 of 2012 and W.A.(MD)No.555 of 2010. As per G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.04.1997, the staff strength in the Municipalities were fixed as per the norms prescribed by the Government by order dated 23.05.1942. Thereafter, in order to meet the demand for more Sanitary workers, the Government issued the above said Government order for creation of more new posts by the Municipal



W.P.No.27301 of 2012

Corporations.

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8. Thus, the petitioners were appointed based on the G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.04.1997. They were appointed on consolidated wages of Rs.1000/- per month through proper selection process by getting their names sponsored through Employment Exchange. Thereafter, G.O.Ms.No.21, Municipal Administration and Water Supply (MC3) Department, dated 23.02.2006 was issued.

9. Clause 4 of the G.O.Ms.No.21 reads that the question of regularisation of the employees (Sanitary workers) could not be considered between 29.11.2001 and 07.02.2006, as the Government had issued G.O.Ms.No.212, Personnel and Administrative Reforms Department, dated 29.11.2001, there had been complete ban for filling-up of all vacant posts by direct recruitment. The ban was only lifted by the Government from 07.02.2006, as per G.O.Ms.NO.14, Personnel and Administrative Reforms Department, dated 07.02.2006.

10. G.O.Ms.No.21 Municipal Administration and Water Supply



W.P.No.27301 of 2012

Department, dated 23.02.2006 plays a vital role in this issue, as it was issued soon after the ban was lifted. The said G.O.Ms.No.21 dated 23.02.2006 reads as follows:

**“Establishment — Urban Local Bodies — Regularisation of services of workers on consolidated pay and NMRs on daily wages in Municipalities and Corporations except Chennai) and Grade III Municipalities Order Issued.**

MUNICIPAL ADMINISTRATION AND WATER SUPPLY (MC3)  
DEPARTMENT

G.O. (Ms) No. 21

Dated : 23.02.2006.

Read :

- 1) G.O. (Ms) No.70 Municipal Administration and Water Supply Department dated 5.5.1998.
- 2) G.O. (Ms) No.71 Municipal Administration and Water Supply Department dated 5.5.1998.
- 3) G.O. (Ms) No.72 Municipal Administration and Water Supply Department dated 5.5.1998.
- 4) G.O. (Ms) No.84 Municipal Administration and Water Supply Department dated 21.5.1998
- 5) G.O. (Ms) No.198 Municipal Administration and Water Supply Department dated 26.10.1996
- 6) G.O. (Ms) No.125 Municipal Administration and



W.P.No.27301 of 2012

Water Supply Department dated 27.5.1999

Read also :

7) From the Commissioner of Municipal Administration, Letter Roc No.42519/2004/S6 dated 27-10-2005.

8) From the Commissioner of Municipal Administration Letter Roc No. 35845/2004/MCA2 dated 14.12.2006.

9) G.O.(Ms). No 14 Personal and Administration Reforms Dept dated 7.2.2006.

**ORDER:**

In their orders first to 6th read above, the Government have: fixed certain norms for creation of posts for maintenance of street Lights, sanitary workers, maintenance of water supply and general category.

2. In the Government Order sixth read above orders have been issued permitting the Municipal Commissioner to appoint the NMRs on daily wages working in the Corporations (except Chennai) Municipalities and erstwhile Town Panchayats from those who are working prior to 1.10.1996 in Municipal Corporation (Except Chennai) and Municipalities and prior to 31-12-1996 in erstwhile Town Panchayat in the entry level post after, granting them consolidated pay for one year and then to bring them in the



WEB COPY



W.P.No.27301 of 2012

time scale, But these orders were kept in abeyance due to general ban orders for recruitment of entry level posts.

3. In the letters seventh and eight read above, the Commissioner of Municipal Administration has sent proposals for regularization of 6058 numbers of employees on consolidated pay and NMRs on daily wages working in Municipalities and Municipal Corporations (Except Chennai) and 674 numbers of employees on consolidated pay and NMRs on daily wages working in Grade-III Municipalities in various Categories as follows:-

| Name of the Post                                  | Municipalities and other Corporations | Grade III Municipalities |
|---------------------------------------------------|---------------------------------------|--------------------------|
| Street Light Maintenance staff (Wireman & Helper) | 119                                   | 31                       |
| Sanitary Workers                                  | 2710                                  | 424                      |
| Water Supply Staff                                | 358                                   | 161                      |
| Entry Level Posts (General)                       | 2871                                  | 58                       |
|                                                   | <b>6058</b>                           | <b>674</b>               |

4. In the order 9th read above, the ban orders for making entry level appointments have been lifted, Therefore, The Government have decided to accept the proposals of the Commissioner of Municipal Administration mentioned in Para 3 above and to regularise the service of the 6058 employees on consolidated pay and NMRs on daily wages working in various Municipalities and other Municipal



Corporations (Except chennai) and 674 employees on consolidated pay and NMRs on daily wages in Grade – III Municipalities (formerly upgraded Town Panchayat) by bringing them into regular time scale of pay with immediate effect.

5. They, accordingly, direct the appointing authorities viz Municipal Commissioners, Grade III Municipal Commissioners and Commissioners of Municipal Corporations (Except Chennai) to appoint the employees on consolidated pay and NMRs on daily wages on their roll as on 01-10-1996 in respect of Municipalities and Municipal Corporations (except chennai) and as on 31-12-1996 in respect of Grade-III Municipalities in the vacant posts and to regularise their services in the regular post, from the date of issue of their order subject to the following conditions:-

- i) Sanctioned posts should be available
- ii) Persons should fulfill all Educational and other qualifications and
- iii) Establishment (Pay and Pension) expenditure of the Urban Local Body should not exceed 49% revenue after filling up of posts.

6. The appointing authorities are strictly advised not to appoint any person on daily wages or on consolidated pay in the Municipalities and in the Municipal corporations in



W.P.No.27301 of 2012

future.

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7. The order issued with the concurrence of the Finance Department vide its U.O.No.866/ FS/P/06 dated 23-2-2006.”

11. It is quite evident that as per G.O.Ms.No.101 as mentioned supra, the services of the petitioners were not regularised after completion of three years in August 2001.

12. As regards the regularisation, the Hon'ble Supreme Court in **K.Madalaimuthu & Anr vs. State of Tamil Nadu & Ors, (2006) 6 SCC 558**, it is observed that it is a wisdom of the Government to give regularisation from any date.

13. It is also relevant to collate the operative portion of the order of the order of Full Bench of this Court in W.P.(MD).No.1083 of 2012 and W/A.(MD).No.555 of 2010:

*“(i) The view taken in W.P.(MD).Nos.4170 & 4171 of 2011, dated 02.04.2013, has got nothing to do with the Sanitary Workers, working in Municipalities and Municipal*



W.P.No.27301 of 2012

WEB COPY

*Corporations, who are governed by G.O.Ms.No.101, 71 & 21, Municipal Administration and Water Supply Department, dated 30.04.1997, 5.5.1998 & 23.2.2006, respectively. Therefore, we have not examined the correctness of the view expressed in W.P.(MD) Nos.4270 & 4271 of 2011.*

*(ii) The view expressed in W.A.(MD).No.729/2013 is not the correct legal position in respect of Sanitary Workers, who are governed by G.O.Ms.Nos.101, 71 & 21, Municipal Administration and Water Supply Department, dated 30.04.1997, 5.5.1998 and 23.2.2006, respectively and accordingly, we, with respect, overrule the same.*

*(iii) Those Sanitary Workers, who were appointed as per G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.04.1997 or absorbed as per G.O.Ms.No.71, Municipal Administration and Water Supply Department, dated 5.5.1998, are all governed by G.O.Ms.No.21, Municipal Administration and Water Supply Department, dated 23.02.2006, in respect of their regularisation in service and such regularisation shall take*



W.P.No.27301 of 2012

WEB COPY

*effect only from 23.02.2006 and not from the date on which they had completed three years of service from the date of their initial entry into service.”*

14. Therefore it is prerogative of the Government to fix the date of regularisation. As per G.O.Ms.No.21, dated 23.02.2006, the date of regularisation is only from 23.02.2006.

15. Therefore based on the above said discussions, it is made clear that the petitioners have failed to make out their case and in the result, the writ petition stands dismissed. There is no order as to costs. Connected miscellaneous petitions if any, stand closed.

**15.07.2024**

Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
Neutral Citation Case : Yes/No

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To

Page No.12/14



W.P.No.27301 of 2012

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**R.KALAIMATHI, J.**

dpa

W.P.No.27301 of 2012



WEB COPY



W.P.No.27301 of 2012

and

M.P.No.2 of 2012

15.07.2024