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W.P.No.10142 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.10142 of 2022

1. Sridharan
2. Murgesan D
3. Shanmugam N
4. Veerappan P

... Petitioners

-Vs-

1. The Chief Secretary,
Municipal Administration and Water Supply
Department,
Secretariat Office,
Chennai-09.
2. The Director of Municipal Administration,
Directorate of Municipal Administration,
75, Urban Administrative Building,
Santhome High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai-600028.
3. The Regional Director of Municipal Administration,
Regional Directorate of Municipal Administration,
Tiruppur-641603.
4. The Commissioner,
Sathyamangalam Municipality,
Sathyamangalam,
Erode District-638 402.

... Respondents



W.P.No.10142 of 2022

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to regularize petitioners' service from the date of completion of one year of consolidated pay by applying the G.O.125, Municipal Administration and Water Supply Department dated 27.05.1999 and grant all the consequential monetary benefits by considering the representation dated 10.02.2022.

For Petitioners : Mr.R.Prabakar
For R1 to R3 : Mr.A.M.Ayyadurai
Government Advocate
For R4 : Mr.B.Anand

ORDER

This Writ Petition has been filed for direction directing the respondents to regularize petitioners' service from the date of completion of one year of consolidated pay by applying the G.O.Ms.No.125, Municipal Administration and Water Supply Department dated 27.05.1999 and grant all the consequential monetary benefits by considering the representation dated 10.02.2022.

2. Heard the learned counsel on either side and perused the materials available on record.



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3. The petitioners were originally appointed as Nominal Muster roll employees (herein after called as “NMR”) on various dates, in the years 1991 and 1992. The first petitioner was appointed as Motor Operator on 02.12.1991, the second petitioner was appointed as Section Writer on 21.02.1992, the third petitioner was appointed as Security Guard on 01.06.1992 and the fourth petitioner was appointed as Security Guard on 03.06.1992. All are appointed as NMR employees. In the year, 1999, G.O.Ms.No.125, Municipal Administration and Water Supply Department was issued by the Government, wherein the NMR employees who were appointed and serving prior to October, 1996 became eligible to be appointed in the Entry Level Post and be regularized together with service benefits. Accordingly, the first and second petitioners were brought under the consolidated pay from 17.12.1999 for the post of Office Assistant in Pumping Station, as per the proceedings of the fourth respondent dated 17.12.1999. The third and fourth petitioners were brought under the consolidated pay from 13.03.2000 for the post of Pump Operators as per the proceedings of the fourth respondent dated 27.05.1999.



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4. As per the Government Order, the services of the petitioners ought to have been regularized and be brought under the time scale of pay after completion of one year of their service under consolidated pay. Therefore, the petitioner submitted a representation and it is pending on the file of the respondents.

5. The learned counsel for the petitioners relied upon various judgments of this Court passed in similar matters.

6. A perusal of G.O.Ms.No.21, Municipal Administration and Water Supply (MC3) Department dated 23.02.2006 revealed that the Government Order in G.O.Ms.No.125, Municipal Administration and Water Supply Department dated 27.05.1999 have been issued permitting the Municipal Commissioner to appoint the NMRs on daily wages working in the Corporations, Municipalities and erstwhile Town Panchayats from those who are working prior to 01.10.1996 in Municipal Corporation and Municipalities prior to 31.12.1996 in erstwhile Town Panchayat in the entry level post after granting them consolidated pay for



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one year and then to bring them in the time scale, but these orders were kept in abeyance due to general ban orders for recruitment of entry level posts. Therefore, G.O.Ms.No.21, Municipal Administration and Water Supply Department dated 23.02.2006 was passed and accordingly, directed the authorities viz., Municipal Commissioners, Grade III Municipal Commissioners and Commissioners of Municipal Corporations 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 and as on 31.12.1996 in respect of Grade-III Municipalities in the vacant posts and to regularize their services in the regular post, from the date of issue of their order subject to the conditions that (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. As per lifting the ban and issuance of G.O.Ms.No.21, the petitioners were regularized with effect from 28.02.2006.



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7. Similarly placed persons were considered by this Court in ***W.P.(MD).No.4068 of 2009 dated 08.09.2011***, in the case of ***C.Philip Antony and others Vs The State of Tamil Nadu, represented by the Secretary to Government, Chennai and others***, in which this Court held that there is no justification for specifying the effective date as 23.02.2006. When G.O.Ms.No.125, Municipal Administration and Water Supply Department, dated 27.05.1999 gives the benefit of regular time scale of pay on completion of one year in the consolidated scale of pay in terms of paragraph 3(ii), the alternate date stated in G.O.Ms.No.21, Municipal Administration and Water Supply (MC.3) Department dated 23.02.2006 cannot be justified as the earlier Government Order is very much in force and has not been rescinded, withdrawn or modified. When the benefit has already been granted under G.O.Ms.No.125 Municipal Administration and Water Supply Department dated 27.05.1999, it cannot be denied based on the subsequent Government Order unless the said earlier Government Order has been specifically and intentionally overruled, modified or withdrawn.



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8. Therefore, the petitioners are entitled for regularization of their service from the date of completion of consolidated pay as per G.O.Ms.No.125 Municipal Administration and Water Supply Department dated 27.05.1999. Accordingly, the respondents are directed to regularize the service of the petitioners from the date of completion of one year of consolidated pay, with all monetary benefits, within a period of twelve weeks from the date of receipt of a copy of this order.

9. In the result, this writ petition is allowed. There shall be no order as to costs.

29.01.2024

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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G.K.ILANTHIRAIYAN. J.

mn

To

1. The Chief Secretary,
Municipal Administration and Water Supply
Department,
Secretariat Office,
Chennai-09.
2. The Director of Municipal Administration,
Directorate of Municipal Administration,
75, Urban Administrative Building,
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