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W.A.No.83 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2024

CORAM

**THE HON'BLE DR. JUSTICE ANITA SUMANTH
AND
THE HON'BLE MR.JUSTICE G. ARUL MURUGAN**

W.A. No. 83 of 2021
& C.M.P. No. 641 of 2021

1. The State of Tamil Nadu,
rep. by Secretary to Government,
Highways Department,
Fort St. George, Chennai – 600 009.
2. The Chief Engineer – Highways,
Chepauk, Chennai – 600005.
3. The Divisional Engineer (Highways),
Cuddalore – 607 001.

..Appellants

Vs.

1. G. Muralidoss
2. J. Rajendran
3. S. Aynamohammed (Died)
4. The Accountant General,
Accountant General's Office,
Chennai – 600 018.
5. A. Mehroon
6. A. Sajana
7. A.Shekarmaan
8. A. Shake Arshath
9. S. Mahabobbee



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[R3 died is substituted by respondents 5 to 9
As LR's of deceased R3 vide order of Court
Dated 12.06.2024 made in C.M.P. No.7853/
2024 in W.A. No. 83 of 2021 (SMSJ & CKJ)]

..Respondents

Prayer: Writ Appeal under Clause 15 of Letters Patent as against the order
dated 18.12.2019 passed in W.P. No. 29115 of 2012.

For Appellants	::	Mr.P. Anandakumar, Govt. Advocate
For Respondents	::	Mr.Sundar Narayan for R1, R2, R5 to R9 R3 died R4 no appearance

J U D G M E N T

(Delivered by DR. ANITA SUMANTH,J.)

The State is on appeal challenging order dated 18.12.2019 passed by the
learned Judge in W.P. Nos. 29115 of 2012.

2. The writ petition was filed by three individuals, respondents 1 to 3
herein, (the 3rd respondent is no more and his LR's have been brought on record
as respondents 5 to 9) who had been employed as cleaners in workcharged
establishment with effect from 27.01.1971, 07.08.1974 and 20.09.1974
respectively.



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3. According to Mr. Sundar Narayan, learned counsel for the respondents, they had been promoted as drivers with effect from 08.06.1978, 16.02.1983 and 03.09.1981 respectively. Their services were regularised with effect from 01.01.1977, 01.01.1980 and 01.01.1980 respectively. However, it is the contention of the State that the regularisation was by the Divisional Engineer (Highways), who is not the competent authority in that regard.

4. Be that as it may, Selection Grade was awarded in case of Muralidoss by proceedings dated 18.08.1989 with effect from 10.06.1988; in case of Rajendran, Selection Grade was awarded by proceedings dated 08.05.1995 with effect from 17.02.1993 and in case of Ayna Mohammed (since deceased), Selection Grade was awarded by proceedings dated 25.09.1991 with effect from 03.09.1991.

5. The writ petitioners had superannuated on 30.09.2009, 31.10.2011 and 28.02.2009 respectively. Post their superannuation, the State had passed orders refixing their pension and superannuation benefits to the effect that they would be entitled only to Selection Grade pay.

6. It was those orders that were challenged in the writ petition where the petitioners sought a mandamus to refix their pension and superannuation benefits after granting Special Grade with effect from the date of their entitlement and for a consequential direction to pay arrears of pension and



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superannuation benefits together with interest on the basis that their services were regularised much earlier and that they are entitled to Special Grade of pay.

7. We have heard learned counsel on either side.

8. Learned Government Advocate would draw our attention to two Government Orders passed, one in the case of respondent Nos. 1 and 3 and the other in the case of respondent 2. G.O.Ms. 390 Highways (HM 2) Department dated 12.09.1997 sets out in Annexure 1, a list of 261 persons whose services were regularized, post which, they had been promoted with effect from 23.02.1987. This Government Order refers to Muralidoss and Ayna Mohammed at Serial Nos. 3 and 4 of the Annexure.

9. As far as Rajendran is concerned, the State would refer to G.O.Ms. No. 36 Highways and Minor Ports (HM 2) Department dated 29.02.2016, which sets out in Annexure 1 thereto, a list of 381 persons, who were temporarily regularized with effect from 23.02.1987. The date of regularization in all the three cases is thus, one and the same.

10. We set out below, the details of service rendered by the writ petitioners in the Highways Department per their affidavits:

A	B	C	D	E	F	G
Name of Driver	Date of joining as Cleaner	Date of bringing into regular establishment	Date of promotion as Driver	Date of grant of Selection Grade and date of proceedings	Due date for granting Special Grade Not granted	Date of Superannuation



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<i>G.Muralidoss</i>	<i>27.01.1971</i>	<i>01.01.1977</i>	<i>08.06.1978</i>	<i>10.06.1988</i> <i>Proceedings</i> <i>dated</i> <i>18.08.1989</i>	<i>10.06.1998</i>	<i>30.09.2009</i>
<i>J. Rajendran</i>	<i>07.08.1974</i>	<i>01.01.1980</i>	<i>16.02.1983</i>	<i>17.02.1993</i> <i>Proceedings</i> <i>dated</i> <i>08.05.1995</i>	<i>16.01.2003</i>	<i>31.10.2011</i>
<i>Ayna</i> <i>Mohammed</i>	<i>20.09.1974</i>	<i>01.01.1980</i>	<i>03.09.1981</i>	<i>03.09.1991</i> <i>Proceedings</i> <i>dated</i> <i>25.09.1991</i>	<i>03.09.2001</i>	<i>28.02.2009</i>

11. According to the respondents, all of them have put in more than 20 years of service as on the date of their superannuation. On a comparison of the dates as supplied by the writ petitioners (column nos. E and G of the above table), we find that two of the respondents would not qualify. However, the dates of regularisation with promotion in all the three cases as per the Government Orders, is 23.02.1997, and hence the respondents are admittedly entitled to grant of Special pay. Faced with this position, the State is unable to defend its rejection of grant of Special Grade of pay to the writ petitioners.

12. At paragraph 11, the Writ Court accepts the above position. However, the learned Judge has computed the grant of Special Grade pay from 10.06.1998, 16.01.2003 and 03.09.2001, instead of which Special Grade pay should be computed with effect from 23.02.1997 in respect of all the three writ petitioners as per the Government Orders passed.



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13. We direct compliance of the above direction within a period of six weeks from the date of receipt of a copy of this order. The writ appeal stands dismissed. No costs. Connected miscellaneous petition stands closed.

(A.S.M.J.) (G.A.M.J.)
08.11.2024

nv

Index: Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No

To

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Nv

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