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W.P.Nos.23335 of 2021 batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P Nos.23335, 23341, 23347, 23351, 23360 & 23363 of 2021
and
WMP.Nos.24615, 24616, 24620, 24621, 24627, 24628,
24631, 24634, 24636, 24639, 24630 & 24640 of 2021

S.Kadirvel	...	Petitioner in WP.No.23335/21
C.Madhappan	...	Petitioner in WP.No.23341/21
V.Lakshmanan	...	Petitioner in WP.No.23347/21
P.Kuzhandivel	...	Petitioner in WP.No.23351/21
N.Krishnan	...	Petitioner in WP.No.23360/21
N.P. Murugesan	...	Petitioner in WP.No.23363/21

Vs.

1. Government of Tamil Nadu,
Municipal Administration and Water
Supply Department Rep. by its Secretary,
Fort St. George, Chennai-600 009.
2. The Commissioner,
Erode City Municipal Corporation,
Erode Erode District.



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3. The Director,
Municipal Administration Ezhilagam,
Chennai-600 006.

... Respondents in all WPs

Prayer in all WPs: Writ Petitions filed under Article 226 of the Constitution of India, to issue a WRIT OF CERTIORARIFIED MANDAMUS to call for the records of the 2nd Respondent made in his proceedings in Na.Ka.No.C2/21141/2013 dated 19.4.2021 and quash the same and consequently direct the Respondents to consider the appointment of the petitioners as NMR or Mazdoor in Erode Corporation in any of the vacant posts in any department of the Respondent Corporation as per their qualification and consequently regularize the services by bringing the petitioners into regular establishment.

In all WPs.

For Petitioner : Mr.N.K.Susruthan for
Mr.K.Sathish

For Respondents : Mr.S.Arumugam, GA for RR1 & 3
: Mr.M.Rajamathivannan for R2

COMMON ORDER

Heard Mr.N.K.Susruthan, learned counsel for the petitioners, Mr.S.Arumugam, learned Government Advocate for respondents 1 and 3, Mr.M.Rajamathivannan, learned counsel for the 2nd respondent and perused the materials available on record.



2. The petitioners claimed themselves as Mazdoors, working during the period 1990-1991 on daily wages basis and that they have been in the same post for 3 to 4 years. As per the contention of the petitioners they were stopped to work from the year 1995. The petitioners claimed that they are entitled to get the benefit of G.O.Ms.No.125, Municipal Administration and Water supply Department, Dated 27.05.1999, on par with those individuals who have been working on daily wages basis as sanitary workers, drivers etc., provided, they had been working in the Panchayat Union on or before 31.12.1996; in the Chennai Municipalities and other Municipalities on or before 01.10.1996 and in the Chennai Corporation on or before 04.05.1995. The local bodies have to send the list of persons who are entitled to get the benefit of above government order to the government before 31.10.1999. The government would regularise their services from the date of their appointments and their earlier services will not be taken into account. Those individuals whose services were regularised from the date of their absorption in the entry level post will be given with a consolidated monthly pay of Rs.2,000/- per month and thereafter be placed under the time scale of pay.



3. These petitioners have filed a Writ Petition in W.P.No.4804 of 1995 for seeking a Writ of Mandamus to consider their request to regularise their services and bring them into regular establishment. In the said Writ Petition, an order has been passed on 30.07.2002 by directing the respondents to comply the directions of G.O.Ms.No.125, Municipal Administration and Water supply Department, Dated 27.05.1999 by considering the representations of the petitioners. But no order has been passed subsequent to the above direction.

4. The very same petitioners filed another Writ Petitions in W.P.Nos.2385 & 45780 of 2006 and 22678 & 30553 of 2008 seeking the same relief and in the said Writ Petitions also a direction has been given to comply the guidelines of G.O.Ms.No.125, Municipal Administration and Water supply Department, Dated 27.05.1999 on the fresh representation submitted by the petitioners. Subsequent to the said direction, the 2nd respondent has passed an order, rejecting the petitioners representation stating that the applicability of G.O.Ms.No.125, Municipal Administration and Water supply Department, Dated 27.05.1999 is applicable for only those persons who have been working continuously till 01.10.1996. By so stating the representations of the petitioners were rejected on 20.09.2011.



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5. In fact a Contempt Petitions filed in Cont.P.Nos.92&94 of 2012 on the allegation that the directions of the Court issued in WP.Nos.2385 & 45780 of 2006 were not complied, was also closed in view of the rejection order passed and on the observation that the petitioners did not choose to challenge the rejection order.

6. Once again the petitioners filed another Writ Petition in W.P.No.16308/2013 challenging the order of rejection dated 20.09.2011 and for seeking consequential directions. The said Writ Petition was disposed by quashing the order dated 20.09.2011 and directed the respondents to consider the representations of the petitioners. Consequently the 2nd respondent has passed an order on 24.12.2019 stating the same reason and rejected the representation.

7. So it is learnt that every time representations were given by the petitioners to the respondents, the same were rejected by the respondents on the ground that the petitioners were not in continuous service on or before 01.10.1996. However, these orders were not challenged by the petitioners. The petitioners were given with legal notices by questioning the legality of the order



dated 24.12.2019. Once again the 3rd respondent has passed a detailed order on 19.04.2021 stating that the petitioners were working under the Malaria Control Project between the period from 1992-1994 in accordance with the exigencies and were given with daily wages only for the days when they worked.

8. As per the statements of Mr.S.Arumugam, learned Government Advocate for respondents 1 and 3, Mr.M.Rajamathivannan, learned counsel for the 2nd respondent, the petitioners were stopped from 17.12.1994 itself as there was no project or duty available for engaging their services; though it is observed that the petitioners were not in continuous services on or before 01.10.1996, they were stopped from work before 5 years itself; their representations were not considered favourably and rejected; hence, the petitioners have filed these Writ Petitions challenging the order dated 19.04.2021.

9. From the language of G.O.Ms.No.125, Municipal Administration and Water supply Department, Dated 27.05.1999 it has to be understood that the benefit of regularisation through absorption of daily wages in certain prescribed post is available only if the individual was working in any of the local bodies on or before 01.10.1996. In fact, the object of issuing the above government order



itself to protect the interest of the persons who have been in long and continuous services in the local bodies on or before 01.10.1996 and who have not been regularised so far.

10. Even though the petitioners were filed the Writ Petitions each time when their requests were rejected, they did not file any materials to show that they have been in continuous service on or before 01.10.1996 and on the said cut off date they were working in the respective local bodies. When the petitioners have filed these Writ Petitions only in the year 1995, the government order in G.O.Ms.No.125, Municipal Administration and Water supply Department, dated 27.05.1999 has not come into force.

11. The very fact that the petitioners had filed the Writ Petitions in the year 1995 claiming permanency would show that the petitioners were no more in service in the year 1999, when the government order was issued. Had they been in service the 3rd respondent would have sent their names also to the government to get the benefit of G.O.Ms.No.125, Municipal Administration and Water supply Department, Dated 27.05.1999 before the cut off of date 31.10.1999. Without establishing the fact that the petitioners were in continuous employment till



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01.10.1996. the petitioners cannot seek the benefit of regularisation. According to the submission made by the learned counsel for the respondents, the petitioners were stopped to come to work before 5 years service from the date when the Government Order was issued and they were not been in service as on 01.10.1996. Since the whole regularisation exercise has been completed by identifying the persons eligible and proposals were also sent to the government before 31.10.1999 the petitioners do not have nay scope to get the relief prayed .

In the result, these Writ Petitions stand **dismissed**. No costs. consequently, connected miscellaneous petitions are closed.

27.02.2024

Internet : Yes/No
Speaking/Non- Speaking
Neutral: Yes/No
jrs



To

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