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W.P.Nos.5998 of 2024 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2024

CORAM:

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

W.P.Nos.5998, 6003, 6005, 6007 & 6010 of 2024

and

W.M.P.Nos.6645, 6647, 6649, 6650 & 6652 of 2024

M.Periyasamy,		Petitioners in W.P.No.5998 of 2024
N.Jothikumar		Petitioners in W.P.No.6003 of 2024
K.Palanisamy		Petitioners in W.P.No.6005 of 2024
A.Anand		Petitioners in W.P.No.6007 of 2024
K.Govindaraj		Petitioners in W.P.No.6010 of 2024

-Vs -

1. Government of Tamil Nadu,
Rep. by Principal Secretary,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai – 600 009.
2. The Director of Adi Dravidar
and Tribal Welfare,
Chepauk, Chennai – 600 005.
3. District Adi Dravidar and



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Tribal Welfare Officer,
Salem – 636 001.

... Respondents in all W.Ps

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Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in (1) G.O.Ms.No. 26, Adi Dravidar and Tribal Welfare (ADW.4) Department, dated 25.02.2011 of the first Respondent to the limited extent of Para 4 thereof fixing special time scale of pay to full time sanitary workers as Rs. 2500-5000 + GP Rs. 500/- and (2) Proceedings in Na.Ka.No.12052/2020/D4 dated 15.06.2020 of the third respondent to quash the same as unconstitutional and to issue consequential directions to the respondents to grant the pay scale to the petitioners in the pay scale of Rs. 4800-1000+G.P.Rs.1300/- from the date of his initial appointment, grant all consequential monetary benefits with effect from the said date and to forthwith provide promotional opportunities to the petitioners.

In all W.Ps.

For petitioners : Mr.M.Ravi
For Respondents : Mr.T.Tamilvendan
Government Advocate.

COMMON ORDER

These writ petitions have been filed challenging the order passed by the first respondent dated 25.02.2011, to the limited extent of para 4 thereon, thereby fixing special time scale of pay to full time Sanitary Workers as Rs.2500-5000+ grade pay Rs.500/- and the



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proceedings of the third respondent dated 15.06.2020, to reject the request made by the petitioners seeking pay scale of Rs.4800-1000 + grade pay Rs.1300/-.

2. The prayer sought for in all the writ petitions are one and the same and therefore, this Court is inclined to pass common order.

3. All the petitioners were initially appointed as full time Sanitary Worker in the government Tribal Residential Middle Schools and Adi Dravidar Welfare Hostels at various place in the special scale of pay of Rs.2500-5000 + G.P.Rs.500/-. Their posts were regularized from 01.06.2012. Their appointments were made in pursuant to the government order in G.O.Ms.No.26, Adi Dravidar and Tribal Welfare (ADW.4) Department, dated 25.02.2011, issued on the basis of announcement of the Hon'ble Minister for Adi Dravidar Welfare during the budget session of the Legislative Assembly for 2010-11, that those government Tribal Residential school hostels having a strength of more than 100 students, a full time Sanitary worker will be appointed and for the hostels having students strength of less than 100, a part time Sanitary worker will be appointed. For the full time Sanitary Worker special scale



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of pay of Rs.2500-5000 + grade pay Rs.500/- has been prescribed and for part time Sanitary Workers, consolidated monthly pay of Rs.2000/- will be paid.

4. All the petitioners were appointed as full time Sanitary Workers. Therefore, they had submitted representation to fix their pay on par with Sanitary Workers appointed prior to the issuance of government order in G.O.Ms.No.26 dated 28.02.2011. In fact, the Sanitary Workers working in the very same department of Adi Dravidar Tribal Welfare have been placed in the higher time scale of pay of Rs.4800-1000+grade pay of Rs.1300/-.

5. Insofar as the education department is concerned, the government issued order in G.O.Ms.No.47, School Education (R1) Department, dated 02.03.2012, thereby placing the scavengers, similarly appointed pursuant to the said government order, on special time scale of Rs.1300-3000 + grade pay Rs.300/- and this part of the government order was challenged before Madurai Bench of this Court in W.P.(MD). No.17663 of 2014 and this Court by an order dated 25.01.2018, struck down the offending clause 2(1) of the said government order as



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unconstitutional and directed the authorities concerned to place the scavengers appointed as per the said government order on par with the other scavengers working in the education department and who are receiving the regular time scale of pay of Rs.4800-1000 + grade pay of Rs.1300/- from the date of their appointment. It was also confirmed by the Hon'ble Division Bench of the Madurai bench of this Court in W.A.(MD).No.1584 of 2018 by an order dated 29.01.2019.

6. In order to comply of the above said orders, the government issued order in G.O.Ms.No.50, School Education Department, dated 08.03.2019, directing the placement of Sanitary Workers, Watchman etc., serving in the School Education Department in the scale of pay of Rs.4800-1000 + grade pay Rs.1300/- from the date of their initial appointment notionally and with monetary benefits from 25.01.2018 viz., from the date of the order passed by this Court. By referring the said government order, the petitioners also submitted representation and the same was not considered. Therefore, the petitioners approached this Court in W.P.No.27668 of 2019 etc., batch and this Court by an order dated 19.09.2019, directed the respondents to consider the petitioners' representation and dispose the same within a period of twelve weeks.



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However, the said representations were rejected by the orders impugned in these writ petitions.

7. Heard the learned counsel appearing on either side and perused the material placed before this Court.

8. On perusal of the impugned order dated 15.06.2020 passed by the third respondent revealed that the matter is a policy decision and necessary orders will be passed after approval of the government. Though the third respondent considered the representations made by the petitioners for scale of pay of Rs.4800-1000 + grade pay Rs.1300/-, it was forwarded to the government for consideration. On perusal of the status report submitted by the third respondent, the request made by the petitioners is pending on the file of the first respondent for valid consideration. Further revealed that it will take three months time for the above said process due to administrative reasons.

9. Considering the above facts and circumstances, the first respondent is directed to consider the case of the petitioners in view of the similarly placed persons who received revised pay as per the government order in G.O.Ms.No.50, School Educational Department, dated



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08.03.2019, and grant pay scale of Rs.4800-1000+grade pay Rs.1300/-, from the date of their initial appointment and grant all consequential monetary benefits to the petitioners, within a period of three months from the date of receipt of a copy of this order.

10. With the above directions, all the writ petitions are disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no orders as to costs.

08.03.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No

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G.K.ILANTHIRAIYAN. J.

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To

1. The Principal Secretary,
Government of Tamil Nadu,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai – 600 009.
2. The Director of Adi Dravidar
and Tribal Welfare,
Chepauk, Chennai – 600 005.
3. The District Adi Dravidar and
Tribal Welfare Officer,
Salem – 636 001.

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