



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.02.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

Writ Appeal No.498 of 2021

S.Ramalingam

... Appellant

Vs

1.The Director,
Office of the Director of
Town Panchayats,
Kuralagam, chennai – 600 108.

2.The Deputy Director,
Office of the Deputy Director of
Town Panchayats, cuddalore,
Cuddalore District.

3.The Executive Officer,
Ananthapuram Town Panchayats,
Ananthapuram, Villupuram District.

... Respondents

PRAYER: Writ Appeal has been filed under Clause 15 of Letter Patent against the order dated 27.10.2017 made in W.P.No.288 of 2014.

For Appellant : Mr.Manjunath Karthikeyan
for Mr.V.Anil Kumar



For Respondents : Mr.R.Neelagandan
Additional Advocate General
Assisted by Mr.M.Bindran
Additional Government Pleader

JUDGMENT

(Judgement of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Intra-Court Appeal had been preferred by the unsuccessful petitioner, wherein, his claim of regularization of services in the third respondent/ Town Panchayat had been negatived.

2. Heard Mr.Manjunath Karthikeyan, learned counsel for Mr.V.Anil Kumar, learned counsel appearing on behalf of the appellant and Mr.R.Neelagandan, learned Additional Advocate General assisted by Mr.M.Bindran, learned Additional Government Pleader appearing on behalf of the respondents.

3. Mr.Manjunath Karthikeyan, learned counsel for the appellant would submit that the appellant had been employed as a daily wager as a Sanitary worker/ driver, on and from 01.12.1996. He would submit that the



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Government orders have been issued to absorb the employees who have been working on a daily wage as sanitary worker, street light maintenance worker and water supply workers in the Town Panchayat before 30.09.1996 on the consolidated basis, on the basis of their seniority and that on completion of three years of services, they were also sought to be extended the time scale of pay. By further Government orders, their services were also sought to be regularised. But, however, in the case of the appellant, his services were never regularised. The persons who have been working as a sanitary workers, were regularised by the order of the 3rd respondent. Even in the proceedings dated 01.11.1998 in From-II that had been annexed, the name of the appellant had been only shown to be a daily wager who was not confirmed. The appellant had been making repeated representations and as the same were not considered, he had approached this Court earlier and this Court had directed the respondent to consider the case of the appellant. However, the respondent without considering the case of the appellant in its proper perspective had rejected the claim of the appellant by holding that there was no driver post for Trailer vehicle and therefore, his claim could not have been considered.



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4. He would submit that the appellant has been working as a trailer vehicle which is used for sanitary work. Therefore, he is also a person who is involved in sanitary work. He would submit that without considering the case of the appellant, on the various Government orders that had been passed by the Government, the 3rd respondent had rejected the claim of the appellant. Hence, he had challenged the order before this Court and that the learned Single Judge without considering all these aspects, based upon the Government orders, had relied upon the judgment of the Hon'ble Apex Court in *Uma Devi's* case and had held that the appellant cannot seek regularisation, which is beyond the scope of consideration of Scheme and the recruitment modules. He would submit that such a view cannot be applicable to the fact of this case for the simple reason that what the appellant claims is based upon the Government orders issued by the Government to absorb the sanitary workers working as on 31.12.1996. Therefore, he would seek interference of the order passed by the learned Single Judge.



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5. Countering his arguments, Mr.R.Neelagandan, learned Additional Advocate General appearing on behalf of the respondents would submit that the appellant had been working under the consolidated pay as a Driver. He would further submit that even though the Government had passed various orders, the same could be applicable to the case of the appellant for the simple reason that the aforesaid order directing the absorption would only take into fold the sanitary workers, street light maintenance workers and water supply workers and not others. He would further submit that the post of a Driver is not a sanctioned post in the 3rd respondent Panchayat and therefore, there is no possibility of regularising him into service.

6. In such a case, the dictum laid down by the Hon'ble Apex Court in *Uma Devi's* case relied upon by the learned Single Judge would be squarely applicable to the facts of this case and therefore, he would seek this Court to dismiss the Appeal and uphold the order of the learned Single Judge.

7. We have considered the submissions made by the learned counsels



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appearing on either side and perused the materials available on record before this Court.

8. It is an admitted case that the appellant had been working in the 3rd respondent Panchayat even prior to 31.12.1996. It is also not disputed that the Government had issued orders to absorb the employees, who have been working on daily wages as sanitary workers, street light maintenance workers and water supply worker in the Town Panchayats before 31.12.1996 on consolidated pay on the basis of the seniority. It is also an undisputed fact that the appellant had been granted a consolidated pay.

9. In such circumstances, the Government orders benefiting the employees to be absorbed into services of the Town Panchayat would also be applicable to the appellant. The reason that had been assigned by the respondent in rejecting the claim of the appellant is that there was no sanctioned post of a driver of the trailer vehicle. It is also not disputed by the respondents that the services of the appellant had been utilized as a driver for a trailer vehicle which had been involved in sanitary work, which would draw us to the conclusion that the appellant would have to be necessarily



construed only as a sanitary worker.

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10. As rightly pointed out by the learned counsel for the appellant, the learned Single Judge has misapplied the ratio laid down by the Hon'ble Apex Court in *Uma Devi's* case, for the reason that the respondents themselves had sought to regularise the services of such daily wage workers. Having taken such a policy decision, the respondents cannot take umbrella under the judgment of the Hon'ble Apex Court which arose from a case, where there is a claim for regularisation without any such policy.

11. In such circumstances, we are of the considered view that the order impugned before us as well as the impugned order passed by the 3rd respondent are liable to be interfered with. Since, we have given a categorical finding that the appellant herein would be entitled to the benefit of the Government orders directing absorption of sanitary workers, we direct the 3rd respondent herein to consider the case of the appellant in the light of the G.O.Ms.No.84 Municipal Administration of Water Supply Department (Town Panchayat) Department, dated 21.05.1998 and also apply the



subsequent beneficial Government orders of such beneficiaries and pass appropriate orders on the claim made by the appellant within a period of six weeks from the date of receipt of a copy of this order.

12. In fine, this Writ Appeal is allowed with the aforesaid directions. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K.,J.)

(K.B., J.)

16.02.2024

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

gba

To

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3.The Executive Officer,

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and
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