



W.A(MD)No.342 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.03.2024

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and
THE HON'BLE MR JUSTICE K.K. RAMAKRISHNAN

W.A(MD)No.342 of 2017
and
C.M.P(MD)No.3337 of 2017

The Commissioner,
Sankarankovil Municipality,
Thirunelveli District.

... Appellant

vs.

1. State of Tamilnadu,
Represented by its Secretary to the Government,
Department of Municipal Administration,
Fort.St.George,
Chennai.

2. The Commissioner of Municipal Administration,
6th Floor, Ezhilam Annex,
Chepauk,
Chennai-600 005.

3. The Zonal Managing Director,
Municipal Administration,
Palayamkottai,
Thirunelveli District.



W.A(MD)No.342 of 2017

4. Mr.S.Selvaraj
5. Mr.S.Sakthivel
6. Mr.P.Sekar
7. Mr.C.Kutty
8. Mr.A.Issakkimuthu
9. Mr.K.Kurumban
10. Mr.R Poosaipandi
11. Mr.S. Kanagaraj
12. Mrs.S.Vasanth
13. Mrs.S.Kuruvammal
14. Mrs.R.Velammal
15. Mr.S.Marriyappan
16. Mr.G.Arumugam
17. Mr.C.Rajakani
18. Mr.G.Marithurai
19. Mr.S.Murugan
20. Mrs.M.Valli

... Respondents

PRAYER : Appeal filed under Clause XV of Letters Patent, against the order passed in W.P(MD)No.7843 of 2008 dated 23.04.2013.

For Appellant	: Mr.P.Mahendran
For R1 to R3	: Mr.A.K.Manikkam
	Special Government Pleader
For R4 to R15, R17 to R20	: Mr.K.Vadivelu



W.A(MD)No.342 of 2017

JUDGMENT

[Judgment of the Court was made by
MRS.V.BHAVANI SUBBAROYAN.J.]

Challenging the order passed in W.P(MD)No.7843 of 2008 dated 23.04.2013, the Commissioner, Sankarankovil Municipality, has filed this appeal.

2. Respondents 4 to 20 herein who are the writ petitioners were appointed as Sanitary Workers in the appellant Municipality on 28.10.1998 through the employment exchange and they were paid consolidated pay of Rs.1,000/- per month and the same was periodically increased. After completion of three years service, they sought for regularisation of their services with effect from 06.11.2001. However, the Government by applying G.O.Ms.No.21, dated 23.02.2006 regularised the writ petitioners' services with effect from 23.02.2006. The writ petitioners filed writ petition challenging the said G.O., insofar as its' portion relating to the date of effect of regularisation. The Writ Court by order dated 23.04.2013, taking into consideration the similar order passed in W.P(MD)Nos.696 to 701 of 2011 batch, dated 20.09.2011, allowed the



W.A(MD)No.342 of 2017

writ petition, directing the appellant to regularise the services of the respondents 4 to 20 on completion of three years of service from their original dates of appointment. Aggrieved by the said order, the Commissioner, Sankarankovil Municipality, is on appeal.

3. Though the appellant raised various grounds in the memorandum of appeal, today, when the writ appeal was taken up for hearing, learned counsel for the appellant Municipality submitted that the issue involved in this appeal is squarely covered by the Full Bench decision of this Court reported in **2013 (6) CTC 593, S.Dhanasekaran vs. Government of Tamil Nadu**.

4. The relevant portion of the aforesaid Full Bench judgment is extracted below for better appreciation of the case on hand:-

27. In our considered view, in the case of sanitary workers, who were appointed against the newly created posts in pursuance of G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.06.1997, their regularisation is governed by G.O.Ms.No.21, Municipal Administration and Water Supply Department, dated 23.02.2006. Such a regularisation, as per the said G.O., should take effect only from the date of G.O. and not from



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the date on which they had completed three years of service from the date of their initial appointment. Following are the reasons for our conclusion.

(a)As we have already pointed out, appointments of the petitioners and the appellants herein, were not made as per the Tamil Nadu Municipal Corporations Basic Service Rules, 1996. As per the said Rules, sanitary workers can be appointed only by direct recruitment, in time scale of pay. There is no provision in the Rules to appoint sanitary workers on consolidated pay. Therefore, there can be no doubt that the petitioners and the appellants herein, who were all appointed, not as per the Tamil Nadu Municipal Corporations Basic Service Rules, 1996, but, outside the scope of the said Rules, however, governed by the Orders issued by the Government in G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.04.1997.

(b)As we have already pointed out, as per G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.04.1997, new posts of sanitary workers were all created, on need basis. The said Government Order permitted filling-up of such newly created posts, through Employment Exchanges, on consolidated pay. That is how the petitioners and the appellants herein came to be appointed.

(c)As per Clause 4(6) of G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.04.1997, the said appointment was initially for a period of one year, which could be extended upto three years. As we have already extracted, as per Clause 4(6), on completion of three years, the Government would decide whether to regularise the services of such employees, so as to bring them into regular time scale of pay. Therefore, as per this Government Order, it is fallacious to contend that on completion of three years from the date of initial appointment, such appointed



sanitary workers shall be regularised.

(d)As narrated above, the Government thereafter examined the question of regularisation only in the year 2006 and accordingly issued G.O.Ms.No.21, Municipal Administration and Water Supply Department, dated 23.02.2006. The said Government Order directs that the regularisation shall be from the date of issue of the Government Order, namely 23.02.2006.

(e)Thus, a **conjoint reading of G.O.Ms.No.101, Municipal Administration and Water Supply Department, dated 30.04.1997 and G.O.Ms.No.21, Municipal Administration and Water Supply Department, dated 23.02.2005, would go to clearly show that on completion of three years of service from the date of initial appointment, the Government had an option to examine the question of regularisation, which the Government did only in 2006 and it is the wisdom of the Government to give regularisation from any date.** (Vide judgment of the Supreme Court in K.Madalaimuthu and another vs. State of T.N. And others - (2006) 6 SCC 558). **Unless such date fixed by the Government, giving effect to the regularisation, is proved to be arbitrary and violative of Article 14 of the Constitution of India or any other constitutional provision, it cannot be held, in vacuum, that the said norms prescribed in G.O.Ms.No.21 for the purpose of regularisation is either illegal or unconstitutional.** Therefore, we have no hesitation to hold that regularisation of such sanitary workers, who are governed by G.O.Ms.Nos.101, 71 and 21, Municipal Administration and Water Supply Department, dated 30.04.1997, 05.05.1998 and 23.02.2006, respectively, shall be only from 23.02.2006. The contrary view expressed elsewhere in the judgments referred to above, in our respectful view, are not correct."



W.A(MD)No.342 of 2017

5. Learned counsel for the writ petitioners also does not dispute the said proposition of the Full Bench.

6. In view of the above, the order of the Writ Court in W.P(MD)No.7843 of 2008 dated 23.04.2013, is set aside and the Writ Appeal is allowed directing the appellant to regularise the services of the respondents 4 to 20/writ petitioners from the date of issuance of G.O.Ms.No.21, Municipal Administration and Water Supply Department namely, 23.02.2006 and confer them all consequential service and monetary benefits. Such an exercise shall be completed within a period of six weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

(V.B.S.J.,) (K.K.R.K.J.,)
21.03.2024

Index :Yes / No
Neutral Citation :Yes / No
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W.A(MD)No.342 of 2017

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