



W.A(MD)Nos.994 & 995 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

CORAM:

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

**W.A(MD)Nos.994 & 995 of 2017
and
C.M.P(MD)Nos.6794 & 6795 of 2017**

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Fort St.George, Chennai-9.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Kanyakumari District,
Nagercoil.
- 4.The District Educational Officer,
Kuzhithurai Educational District,
Marthandam,
Kanyakumari District.
- 5.The Headmaster,
Government Primary School,
Melpuram,



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Kanyakumari District.

W.A(MD)Nos.994 & 995 of 2017

...Appellants/Respondents
in W.A(MD)No.994 of 2017

Vs.

M.Leela

....Respondent/Petitioner
in W.A(MD)No.994 of 2017

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
School Education Department,
Fort St.George, Chennai-9.
- 2.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006.
- 3.The Chief Educational Officer,
Kanyakumari District,
Nagercoil.
- 4.The District Educational Officer,
Kuzhithurai Educational District,
Marthandam,
Kanyakumari District.
- 5.The Headmaster,
Government Higher Secondary School,
Palugal, Kanyakumari District.
- 6.The Headmaster,
Government Boys Higher Secondary School,
Marthandam,
Kanyakumari District.

...Appellants/Respondents
in W.A(MD)No.995 of 2017



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W.A(MD)Nos.994 & 995 of 2017

Vs.

T.Lalitha Bai

....Respondent/Petitioner
in W.A(MD)No.995 of 2017

PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent, to set aside the order made in W.P(MD)No.4324 & 4325 of 2012, dated 12.04.2012.

For appellants : Mr.A.K.Manikkam
Special Government Pleader

For Respondents : No appearance

JUDGMENT

(Judgment of the Court was made by V.BHAVANI SUBBAROYAN,J.)

This Intra Court appeal is directed against the order passed by the Writ Court, dated 12.04.2012 in W.P(MD)Nos.4324 & 4325 of 2012.

2. The case of the petitioners are that they have been appointed as Sanitary Workers on 25.08.2006 and they have been working in the said post for more than 20 years. They have made several representation to the respondents, including the latest one on 10.10.2011 seeking to regularize their services.



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3. Since, no action has been taken by the respondents, the petitioners have filed a writ petition seeking for a direction to the respondents to regularize the services of the petitioners in the permanent post of full time Watchman with effect from their initial date of appointment in the regular time scale of pay with all attendant and monetary benefits.

4. The Writ Court, considering the various orders passed by the Writ Courts, Division Bench of this Court and the Hon'ble Supreme Court of India in the similar matters, directed the second respondent therein to regularize the services of the petitioners on their completion of ten years of service with time scale of pay and to pass suitable order for regularisation of the services of the petitioners within a period of four weeks from the date of receipt of a copy of the order. There was a further direction issued for payment of arrears of salary, payable to the petitioners pursuant to such regularisation within a period of four weeks therefrom.

5. Challenging the said order, the appellants have filed the present writ appeal on the following grounds:-



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(1) The Writ Court failed to appreciate the fact that the post of Watchman and Sanitary Worker working on part time basis does not come under the ambit of Daily Wages category having the work throughout the day.

(ii) The writ petitioners were not appointed through employment exchange vide G.O.Ms.No.215, P & AR (F) Department, dated 27.06.1995 as well as following the rules of reservation. With regard to absorption, regularization or permanent continuance of temporary, contractual, casual daily wages or ad-hoc employees merely because they continued beyond the term of appointment could not be entitled to any right to be absorbed or to be made permanent merely on the strength of such continuance.

(iii) The writ petitioners appointment was not made by following the due process of selection as envisaged by the relevant rules and Government Orders in force. The appointment of the writ petitioners come to an end at the end of the contract or when it is discontinued. In the instant case, the writ petitioners were irregularly appointed without following the due process of law and claiming the time scale of pay is contrary to the rules in vogue.

(iv) The Government of Tamil Nadu issued G.O.Ms.No.74, P & AR, dated 27.06.2013 revising the orders issued in G.O.Ms.No.22 P & AR dated 28.02.2006



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to the effect that the services of the full time daily wage employees who were initially appointed on full time basis in consultation with the employment exchange to discharge the function of the post in the Tamil Nadu Basis Service and completed ten years of service as on 01.01.2006 shall be regularised against regular vacancies in the sanctioned cadre strength. Hence, the order passed by the Writ Court is liable to be dismissed.

6. The learned counsel appearing for the respondents would submit that based on the Government Order issued in G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, the petitioner is entitled for regularisation in the time scale of pay. The Writ Court has rightly considered the petitioners claim and allowed the writ petitions. He further submitted that even in a similar matter in W.A(MD)Nos.996 to 1000 of 2017, the learned Additional Government Pleader for the appellants therein fairly admitted before the Court that similar writ appeals filed in the subject matter in issue were dismissed and orders of the Writ Court were duly implemented. Thus, the learned counsel appearing for the respondents submits that the respondents herein are also entitled to similar order.



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7. We have heard the learned Special Government Pleader appearing for the appellants as well as the respondents and perused the orders passed in W.A(MD)Nos.996 to 1000 of 2017, dated 10.08.2017.

8. Considering the rival contentions, this Court is of the view that the case of the writ petitioners squarely covers by the aforesaid order made in W.A(MD)Nos.996 to 1000 of 2017, dated 10.08.2017. Hence, the Writ Appeals are dismissed confirming the order of the Writ Court. Needless to state that the appellants shall implement the order of the Writ Court by passing appropriate orders of regularisation of the petitioners as done in similar matters.

9. In view of the above, this writ appeals are dismissed. No costs. Consequently, connected miscellaneous applications are dismissed.

[V.B.S.,J.] [K.K.R.K.,J.]
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V.BHAVANI SUBBAROYAN, J.
and
K.K.RAMAKRISHNAN, J.

am

JUDGMENT MADE IN
W.A(MD)Nos.994 & 995 of 2017

18.03.2024