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W.P.(MD) No.17493 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD) No.17493 of 2017

and

W.M.P.(MD) Nos.14015 & 16103 of 2017

Joint Director of Health Services
Thoothukudi, Thoothukudi District

... Petitioner

-VS-

1.The Presiding Officer
Labour Court, Tirunelveli

2.S.Subramanian

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the impugned award dated 23.02.2017 (received on 20.04.2017), passed by the first respondent in I.D.No. 28 of 2016 and quash the same as illegal.

For Petitioner : Mr.P.Thambidurai
Government Advocate

For Respondents : R1 – Court
Mr.V.Kannan for R2



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ORDER

This writ petition has been filed challenging the order, dated 23.02.2017, passed by the first respondent, reinstating the second respondent into service with backwages and continuity of service.

2. The second respondent was appointed as Sanitary Worker in the Government Hospital, Srivaikundam, on 21.04.2005, through an outsourcing agency. Like the petitioner, several other persons were appointed as Sanitary Workers in various Government Hospitals in the State of Tamil Nadu. When they were terminated from service, they approached the Labour Court, where awards were passed in their favour. These awards were put to challenge by the Government before this Court in W.P.(MD) No.886 of 2017 etc., batch and this Court, by order dated 19.03.2018, allowed the writ petitions filed by the Government and set aside the awards passed by the Labour Court. Challenging the same, the sanitary workers filed writ appeals in W.A.(MD) No.334 of 2019 etc., batch, wherein the Honourable Division Bench of this Court, by common Judgment dated 02.03.2021, has disposed of the writ appeals by granting liberty to the similarly placed Sanitary Workers to



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give representation to the Secretary to Government, State of Tamil Nadu, Health and Family Welfare Department, Secretariat, Chennai, and on receipt of the said representation, the Secretary to Government was directed to pass appropriate orders, in the light of G.O.Ms.No.325, Health and Family Welfare (C1) Department, dated 11.09.2007, after satisfying that the appellants therein are similarly placed persons to that of those persons, who have been given benefit under the said Government Order. Therefore, learned Government Advocate appearing for the petitioner and the learned counsel appearing for the second respondent, in unison, would submit that this writ petition may be allowed on the same lines and to that effect, both of them have produced a copy of the Judgment dated 02.03.2021, passed in W.A.(MD) No. 334 of 2019 etc., batch before this Court.

3. At this stage, it would be apposite to extract the operative portion of the said Judgment dated 02.03.2021, passed in W.A.(MD) No.334 of 2019 etc., batch:

“6. The appellants seek a limited prayer before us, which is, to direct the Secretary to the Government, Health and Family Welfare Department, Secretariat, Chennai, to consider their case and extend the relief, as granted to 27



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others, which according to them are similarly placed, in G.O.Ms.No.325, Health and Family Welfare (C1) Department, dated 11.09.2007.

7. For the aforesaid exercise, neither the second respondent nor the Government of Tamil Nadu, Rep. by the Secretary, Health and Family Welfare Department, Secretariat, Chennai, will have any objection. Therefore, without expressing anything on the merits of the claim, we are inclined to direct the said authority to consider the case of the appellants and grant the relief, as given to the others in G.O.Ms.No.325, Health and Family Welfare (C1) Department, dated 11.09.2007, provided the appellants are similarly placed. After all, a welfare State is expected to be fair to the similarly placed employees, which is applicable even to the relief granted.

8. In such view of the matter, we call upon the Secretary to the Government, State of Tamil Nadu, Health and Family Welfare Department, Secretariat, Chennai, to look into the issue and pass appropriate orders, in the light of the Government Order passed in G.O.Ms.No.325, Health and Family Welfare (C1) Department, dated 11.09.2007, after satisfying that the appellants are similarly placed to that of those persons, who have been given the benefit thereunder. Appropriate orders in this regard will have to



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be passed within a period of twelve weeks from the date of receipt of representation from the appellants. The appellants are directed to give such representation within a period of two weeks from the date of receipt of a copy of this judgment.

9. We once again make it clear that we have not expressed anything on the merits of the matter and the Secretary to the Government, Health and Family Welfare Department, Secretariat, Chennai, is to take a decision in this regard, after satisfying himself that the appellants are similarly placed to that of those persons, who have been given the benefit in the said Government Order.”

4. Taking into consideration the conjoint submissions of the learned counsel on either side, this Court is inclined to allow this writ petition on the same lines of the Judgment of the Honourable Division Bench, dated 02.03.2021, passed in W.A.(MD) No.334 of 2019 etc., batch.

5. Accordingly, this writ petition is allowed and the impugned order, dated 23.02.2017, passed by the first respondent, is hereby quashed. The second respondent is granted liberty to give a representation to the



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Secretary to the Government, State of Tamil Nadu, Health and Family Welfare Department, Secretariat, Chennai, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the Secretary to Government is directed to look into the issue and pass appropriate orders, in the light of G.O.Ms.No.325, Health and Family Welfare (C1) Department, dated 11.09.2007, after satisfying himself that the second respondent is a similarly placed person to that of those persons, who have been given the benefit under the said Government Order, within a period of twelve weeks thereafter. It is made clear that this Court has not gone into the merits of the matter and it is for the Secretary to the Government to take a decision after satisfying himself that the second respondent is a similarly placed person to that of those persons, who have been given benefit under the above referred Government Order. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The Presiding Officer,
Labour Court,
Tirunelveli.
- 2.The Joint Director of Health Services,
Thoothukudi,
Thoothukudi District.



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KRISHNAN RAMASAMY, J.

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