



W.P.No.16505 of 2015

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.16505 of 2015

- 1.N.Arumugam
- 2.N.Mayavan
- 3.M.Murugan
- 4.V.Sivakumar
- 5.Anjamani

... Petitioners

Vs.

- 1.State of Tamil Nadu,
Rep by its Secretary,
Home (Police) Department,
Fort St.George
Chennai – 600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Chennai – 600 004.
- 3.The Superintendent of Police,
Villupuram District,
Villupuram.

... Respondents



W.P.No.16505 of 2015

WEB COPY

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the entire records which culminated in issuing the Letter No.19143/Pol.XV/2013-7 dated 25.03.2014 on the file of the first respondent, set aside the same and consequently direct the respondents to regularize the service of the petitioners in the cadre of Sweeper in the regular time scale of pay from the date of joining i.e., 13.11.2020 as per G.O.Ms.No.110 Home (Police) Department dated 17.02.2011 and in the light of the recommendations made by the second respondent in Rc.No.168346/NGB 6(1)/2011 dated 21.05.2013.

For Petitioners : No Appearance

For Respondents : Mr.G.Nanmaran
Special Government Pleader

ORDER

There is no representation on behalf of the Petitioners. Even during the present spell, there were two adjournments stating that the counsel who have filed this Writ Petition has been nominated/designated as a Counsel for the State. That being the case, steps should have been taken to inform the Petitioners to engage another Counsel on their behalf.



W.P.No.16505 of 2015

WEB COPY

2. The petitioners herein were appointed on temporary basis in various police stations within the control of the 3rd Respondent/Superintendent of Police, Villupuram and were paid consolidated pay of Rs.305/- per month as Sweeper with effect from 13.11.2000.

3. Later, the consolidated pay/salary of the Petitioners was increased in the year 2002 to Rs.900/- and thereafter to Rs.1,600/- as per the 6th Pay Commission recommendations and was further increased to Rs.2,810/- from 05.03.2012 and thereafter to Rs.2,922/- from 01.10.2012.

4. The Petitioners were subsequently absorbed as regular employees by the 3rd Respondent/Superintendent of Police, Villupuram pursuant to **G.O.Ms.No.653, Home (Pol.15) Department**, dated **07.08.2009** in Special Time Scale. Thereafter, vide **G.O.Ms.No.202, Home (Pol.15) Department**, dated **05.03.2012**, the pay of the Petitioners and others 396 persons in total were regularised and their pay were fixed



W.P.No.16505 of 2015

WEB COPY

in special time pay scale of Rs.1300-3000+G.P.300 from the date of issuance of the said Government Order.

5. The contentions of the petitioners are that they are entitled for service benefits with effect from **13.11.2000**, i.e., from the date of their appointment as Sweepers at the police stations under the control of the 3rd Respondent/Superintendent of Police, Villupuram on consolidated pay of Rs.305/-.

6. These Petitioners have earlier approached this Court in W.P.Nos. 34047 of 2012 etc., wherein, they had prayed for a direction to the Respondents to consider the Representation of the Petitioners for regularising their service from the date of their appointment.

7. These Writ Petitions were disposed of vide Order dated 18.12.2012, pursuant to which, the aforesaid Impugned Order dated 25.03.2014 was passed by the 1st Respondent / Government of Tamil Nadu pursuant to recommendations the 2nd Respondent / the Director General of Police dated 21.05.2013.



W.P.No.16505 of 2015

WEB COPY

8. By the Impugned Order, the 1st Respondent rejected the request of the respective petitioners for regularising their service with effect from the date on which they joined their services at police stations under the control of the 3rd Respondent on consolidated pay of Rs.305/- i.e., on 13.11.2000.

9. This Writ Petition is based on the strength of **G.O.Ms.No.110 Home (Pol.1) Department** dated **17.02.2011**.

10. In the Counter Affidavit, the Respondents have stated that the aforesaid Government Order is not applicable to the case of the Petitioners and was confined only to 80 personnel who were working as Cooks, Barbers, Dhobi and Sweepers in Tamil Nadu Special Police Battalion from the date of issuance of Government Order.

11. It is submitted by the Respondents that the benefit of the aforesaid Government Order cannot be extended to the Petitioners as it was confined only to those 8 categories of casual workers in the Tamil



W.P.No.16505 of 2015

WEB COPY

Nadu Special Police Battalion. It is therefore submitted that the case of the Petitioners cannot be treated on par with those who got the benefit under **G.O.Ms.No.110 Home (Pol.15) Department, dated 17.02.2011.** Alternatively, it was also submitted that even in those cases the benefits were confined only from the date of issuance of the aforesaid Government Order and cannot be from the date of appointment of the respective employees.

12. It is further submitted that the Petitioners are not entitled to the benefits under G.O.Ms.No.74, P&AR Department, dated 27.06.2013 which was preceded by G.O.Ms.No.22 dated 28.02.2006.

13. I have considered the arguments advanced by the learned Special Government Pleader for the Respondents and also perused the materials available on records.

14. As a matter of fact, the Full Bench of this Court on an earlier occasion while considering the plight of the similarly placed employees who were appointed on temporary basis in ***M.Sivappa Vs. State of Tamil***



W.P.No.16505 of 2015

WEB COPY

Nadu and others in W.P.No.23823 of 2023 considered the scope of G.O.Ms.No.74 dated 27.06.2013 and G.O.Ms.No.22 dated 28.02.2006.

15. The Full Bench of this Court vide order dated 26.02.2024 in W.P.No.23823 of 2023 held as under:-

*36. Having considered the entire literature that is available in the form of various pronouncements of this Court, as well as the Hon'ble Supreme Court, we find it difficult to accept the Judgment of the Division Bench in **State of Tamil Nadu, rep by its Secretary, Public Works Department and another v. S. John Charles and others**, W.A.Nos.2875 and 2644 of 2018, etc., dated 16.08.2019, as one laying down the law to the effect that the Government is free to appoint persons either in Part-time or on a Full-time Temporary basis to Permanent posts and oust them out at its whims and fancies and we conclude that such unbridled exercise of indiscretions by the State Government would amount to exploitation.*

37. We are of the considered opinion that wherever the posts are permanent in nature and they come within 86 categories of posts which form the Tamil Nadu Basic Service, Temporary or Part-time employment should be avoided and those persons, who have been appointed to such posts and who have completed 10 years of service as on 28.02.2006 would be entitled to Regularisation de hors the nomenclature that is given to the appointment.

38. In fine, we hold -

(a) If it is shown that the appointment is made to anyone of the 86 categories of posts enumerated in the Tamil Nadu Basic Service immaterial of the fact that whether such appointment is part-time or full-time, the Employee would be entitled to the benefit of



W.P.No.16505 of 2015

WEB COPY

Regularisation de hors G.O.Ms.No.74, dated 27.06.2013.

(b) If it is shown that the nature of employment is temporary and the requirement will cease to exist after a particular time, like those appointments that are made under various Welfare Schemes, it will then be open to the Government to engage Temporary Employees or Part-time employees.

*39. We conclude that the Judgments in **State of Tamil Nadu, rep by its Secretary, Public Works Department and another vs. S. John Charles and others**, W.A.Nos.2875 and 2644 of 2018, etc., dated 16.08.2019 and **State of Tamil Nadu, rep by its Secretary to Government, Rural Development and Panchayat Raj Department and others Vs. K. Rajakrishnan**, W.A.(MD).No.836 and 837 of 2014, dated 05.07.2023 cannot be taken as laying down an inflexible rule of law that any part-time or Temporary Employee, who has completed 10 years of service on 28.02.2006 will not be entitled to Regularisation. The benefit of Regularisation will depend on the nature of the job and the fact that whether the post falls within any one of the 86 categories mentioned in the Special Rules for Tamil Nadu Basic Service.*

16. The Court held that the benefit of regularisation will depend on the nature of job and the fact that whether the post is covered within any of those 86 categories mentioned in the Special Rules for Tamil Nadu Basic Rules. The decision is to be applied to the facts of the present case.



W.P.No.16505 of 2015

WEB COPY

17. Under these circumstances, the impugned orders are set aside and the case is remitted back to the 2nd Respondent to pass fresh order in the light of the decision of the Full Bench of this Court in **W.P.No.23823 of 2023** in M.Sivappa Vs. State of Tamil Nadu and others, within a period of eight weeks from the date of receipt of a copy of this order. Needless to state, before passing the final order, each of the petitioners shall be issued with a Notice and be heard.

18. Registry is directed to send a copy of this order to the respective petitioners, as they are not represented by the counsel who was initially engaged in the matter.

19. This Writ Petition stands disposed of with the above directions.

No costs.

25.03.2025

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

jas

9/11



W.P.No.16505 of 2015

WEB COPY

To

- 1.The Secretary,
State of Tamil Nadu,
Home (Police) Department,
Fort St.George
Chennai – 600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Chennai – 600 004.
- 3.The Superintendent of Police,
Villupuram District,
Villupuram.



WEB COPY



W.P.No.16505 of 2015

C.SARAVANAN, J.

jas

W.P.No.16505 of 2015

25.03.2025