



W.P. No. 10440 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2025

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

W.P. No. 10440 of 2019

A.Mahalingam

... Petitioner

-VS-

1. Government of Tamil Nadu
Rep. by Secretary to Government
Municipal Administration and Water Supply Department
Secretariat, Chennai-600009.

2. The Commissioner of Municipal Administration
Chepauk, Chennai-600005.

3. The Commissioner
Salem City Municipal Corporation
Salem.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the respondents to give effect of date of regular appointment of the petitioner in the post of unskilled worker with effect from 15.05.2001 instead of from 23.02.2006 and to grant him all consequential service and monetary benefits, including bringing him under the purview of Tamil Nadu Pension Rules 1983 and to grant him all pensionary benefits.

For Petitioner : Mr.M.Ravi
For Respondents : Mr.S.Rajesh, GA (RR1 & 2)
Ms.Devi.N, Standing Counsel (R3)



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ORDER

Heard Mr.M.Ravi, learned counsel for the petitioner and Mr.S.Rajesh, learned Government Advocate for the first and second respondents and Ms.Devi.N, learned Standing Counsel for the third respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The petitioner was initially appointed as NMR worker on daily wage basis in the respondent Corporation during October 1986 and thereafter, he continuously served without any break in view of the Government Order dated 27.05.1999. He was appointed as unskilled worker on 15.05.2000 on consolidated monthly pay of Rs.2000/-. The petitioner claims that he ought to have been brought under the regular time scale of pay on completion of one year, but the respondent Corporation had appointed him in the regular time scale of pay only from 23.02.2006. In view of the said appointment, the petitioner will lose the benefit of coming under the Old Pension Scheme. Hence, the petitioner has given a representation to the first respondent Government to consider his grievance.



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WEB 3.0 PDF The learned counsel for the petitioner submitted that similarly placed persons have already filed writ petitions, writ appeals and review petitions and they have been taken together and a common order has been passed on 30.05.2017 by a judgment of the Full Bench of this Court. Attention was drawn to the relevant portion of the said judgment, which are extracted hereunder:-

“27. The relevant portion of the G.O.(Ms.)No.74, dated 27.06.2013 i.e., paragraph 6 of the G.O.(Ms.)No.74, Personnel and Administrative Reforms(F) Department, dated 27.06.2013 was put under challenge before this Court and by number of judgments, the period restricted for such regularization upto 01.04.2006 has been extended, by setting aside paragraph 6 of G.O.Ms.No.74, dated 27.06.2013, till the date of issuance of G.O.Ms.No.74 i.e., dated 27.06.2013. Therefore, these kind of temporary employees on consolidated pay or daily wage basis, who had been regularized upto 27.06.2013 have become eligible to seek for benefits including the pensionary benefits and number of decisions have been rendered by this Court and this Bench also have come across some of such cases, which



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were allowed in tune with the aforesaid legal proposition.

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28. When that being so, as far as these employees are concerned, who were very well entitled to seek for such regularization before 01.04.2003 and if, we take the import of G.O.Ms.No.22, dated 28.02.2006 as well as G.O.Ms.No.74, dated 27.06.2013 cumulatively, the intention of the Government since has been made explicitly that, those who have rendered service of more than 10 years can be regularized provided if they have joined service or initially engaged as NMRs or temporary employees on consolidated pay or daily wage basis before 01.04.2003, the date on which the new pension scheme had come, are all entitled to seek for such benefit of regularization i.e., before 27.06.2013 and would be entitled to seek for the benefit of calculating 50% service they rendered prior to their regularization for the purpose of calculating the total pensionary benefits. When such being the legal position, based on which, several employees' plea having been accepted by this Court, the



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benefit had been extended and number of such orders have been passed including our Division Bench judgment, therefore those judgments are binding.

29. If we apply the aforesaid principle and various decisions, which have been rendered in consonance with the aforesaid legal principle, the view taken by the learned Single Judge through the impugned order of-course prior to the judgment of the Full Bench cannot be said to be an erroneous one or flawed one. Hence, the order impugned is to be sustained in the considered opinion of us.”

Insofar as the Government Order Nos. 101 and 71 are concerned, they are in respect of similar persons working in municipalities.

4. The learned counsel for the petitioner submitted that G.O.Ms. No.125, Municipal Administration and Water Supply Department dated 27.05.1999 is also *pari materia* to the Government Orders referred in respect of the similar persons working in municipal Corporation and as referred in the judgment of the Full Bench of this Court dated 30.05.2017.



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On perusal of the records, in the order issued for fixing the grade pay to the petitioner, it has been stated that after one year, time scale of pay would be given to the petitioner. But the learned counsel for the petitioner submitted that as assured the time scale of pay has not been given to the petitioner immediately after one year from 15.05.2000, but he has been brought under the time scale of pay after six years. So it is claimed by the petitioner that due to the fault on the part of the respondents in extending him the time scale of pay, he should not be deprived to get the service benefits. To be noted that undertaking given for granting the time scale of pay is different from undertaking given for regularization.

6. It is submitted that even in the cases involving orders passed by the Full Bench also, similar kind of undertaking was given by the respondents, but they have not been complied and hence, the order came to the rescue. If such is the case, then the petitioner's case can also be considered in light of the above judgments and in accordance with law and on its own merits on the representation given by the petitioner.



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7. With the above observations, this writ petition is disposed. The third respondent is directed to consider the representation of the petitioner, in the light of the earlier judicial pronouncement, on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. No costs.

15.04.2025

Internet: Yes/No

Speaking /Non-speaking order

Neutral Case Citation : Yes / No

Maya

To

1. Government of Tamil Nadu
Rep. by Secretary to Government
Municipal Administration and Water Supply Department
Secretariat, Chennai-600009.
2. The Commissioner of Municipal Administration
Chepauk, Chennai-600005.
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R.N.MANJULA, J.

Maya

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