



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2025

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.21399 of 2015

V.Shahida Banu

... Petitioner

Vs.

1.Government of Tamil Nadu

Represented by Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai – 600 009.

2.The Commissioner of Municipal Administration,
Chepauk, Chennai – 600 005.

3.The Commissioner,
Salem City Municipal Corporation,
Salem.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to give effect of date of regular appointment of the petitioner in the post of Junior Assistant cum Typist with effect from 15.05.2001 instead of from 09.07.2003 and to grant the petitioner all consequential service and monetary benefits, including pensionary benefits under Tamil Nadu Pension Rules.



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For Petitioner : Ms.T.Subhiksha for Mr.M.Ravi
For R1 & R2 : Mr.S.Rajesh
Government Advocate.
For R3 : Ms.N.Devi assisted by Mr.V.Parthiban

ORDER

The petitioner herein was initially appointed as NMR Worker on 13.09.1991 and thereafter, in terms of the orders issued in G.O.Ms.No.125, Municipal Administration and Water Supply Department, dated 27.05.1999, the petitioner was appointed on consolidated monthly pay as unskilled worker, by an order dated 15.05.2000 and thereafter, the petitioner was appointed as Junior Assistant-cum-Typist in the time scale of pay by an order dated 29.08.2003 with effect from 09.07.2003. It was thereafter, the petitioner submitted a representation seeking regularization of her services from the date of her appointment on consolidated monthly pay as unskilled worker with effect from 15.05.2000. The said claim of the petitioner having not been considered by the respondents, the petitioner approached this Court by filing the present writ petition seeking writ of mandamus directing the respondents to give effect to the date of regular appointment of the petitioner in the post of Junior Assistant-cum-Typist with effect from 15.05.2001 instead of 31.08.2005 and to grant all consequential service, pensionary and



other monetary benefits under Tamil Nadu Pension Rules.

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2. The respondent No.3 filed counter affidavit contending that the petitioner is not entitled for regular appointment with effect from 15.05.2001, as there was a ban imposed by the Government through G.O.Ms.No.212, Personal and Administrative Reforms (P) Department, dated 29.11.2001 and the said ban was lifted only by virtue of the orders issued in G.O.Ms.No.14, Personnel and Administrative Reforms (P) Department, dated 07.02.2006 and accordingly, the case of the petitioner was considered for regular appointment on lifting of the ban and rightly regularized initially with effect from 2006 and thereafter with effect from 09.07.2003. In the counter affidavit it is also stated that the regularization of the services of the petitioner was made in terms of the orders issued by the Government in G.O.Ms.No.21, Municipal Administration and Water Supply (MC3) Department, dated 23.02.2006, whereby the regularization of the services of the employees employed on consolidated pay in terms of G.O.Ms.No.125 were directed to be regularized from the date of issuance of the Government order alone.

3. Heard Ms.T.Subhiksha for Mr.M.Ravi, learned counsel for the petitioner, Mr.S.Rajesh, learned Government Advocate for the 1st and 2nd



respondents and Ms.N.Devi assisted by Mr.V.Parthiban, learned counsel for the 3rd respondent.

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4. The claim of the petitioner for regularization of her services is basing upon the orders issued in G.O.Ms.No.125, Municipal Administration and Water Supply Department, dated 27.05.1999. The said Government order provides for the appointment of daily wage workers included in the list prepared under the said Government order to the vacancies arising from time to time in the concerned Municipalities/Municipal Corporations/Metropolitan Governments, as per their qualifications in their entry level posts, and provides for the payment of service benefits from the date of such appointment. It also provides for bringing them to the periodical scale of pay after one year of their appointment on consolidated pay, and further puts a restriction on taking into consideration the service rendered by such employees as daily wage workers prior to their regular appointment to the post on consolidated monthly pay of Rs.2,000/-.

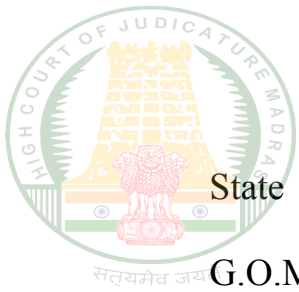
5. The petitioner herein was initially appointed as NMR Worker on 13.09.1991 and thereafter, in terms of the order issued in G.O.Ms.No.125, he was appointed on a consolidated monthly pay of Rs.2,000/- as an unskilled



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worker on 15.05.2000. In terms of the order issued in G.O.Ms.No.125 dated 27.05.1999, the petitioner is entitled for regular scale of pay from the date of completion of one year of service in the consolidated monthly pay i.e., from 15.05.2001. However, the claim of the petitioner was not considered by the respondent only on the ground that there was a ban imposed by the Government with effect from 29.11.2001 till 07.02.2006. Except the said ground, there is no other reason mentioned in the counter affidavit filed by the respondents.

6. Ms.T.Subhiksha, learned counsel for the petitioner placed reliance on the decision rendered by learned Division Bench of Madurai Bench of this Court in W.A.(MD).No.273 of 2011 dated 02.03.2011, whereby the learned Division Bench confirmed an order passed by the learned Single Judge. In the said case, the facts are identical to the case on hand. In the said case, the respondent Sweeper was appointed on consolidated pay on 31.08.2001 in terms of G.O.Ms.No.125 dated 27.05.1999. However, her case was refused to be regularized in terms of G.O.Ms.No.125 on the ground of ban imposed by the Government from the year 2001 till 2006. The learned Single Judge, by an order dated 02.12.2010 passed in W.P.(MD).No.5475 of 2008, having taken into consideration the objection raised by the respondent



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State therein allowed the writ petition holding that the ban imposed under G.O.Ms.No.212 dated 29.11.2001 has no application to the case of the petitioner therein, as the petitioner therein was appointed as Sweeper much prior to issuance of the said Government Order and the ban that was imposed under the G.O.Ms.No.212, dated 29.11.2001 is only against the appointment and not against the regularization of the persons who were already appointed. The said decision of the learned Single Judge in W.P.(MD).No.5475 of 2008 dated 02.12.2010 was confirmed by learned Division Bench in the above referred writ appeal by an order dated 02.03.2011. The relevant para from the said order of the learned Division Bench reads as under:

“2. The case of the appellants is that the respondent, who was employed as NMR from 1994 was given the post of Sweeper on 31.08.2001 in terms of G.O.Ms.No.125 Municipal Administration and Water Supply Department dated 27.05.1999. However, before completion of one year, ban order was issued by the Government in G.O.Ms.No.463 Finance (CMPC) Department, dated 23.11.2001 and therefore, according to the appellants, only after lifting the ban order respondent's service can be brought under the time scale of pay and the same is also clarified in G.O.Ms.No.21 Municipal Administration and Water Supply (MC3) Department, dated 23.02.2006. Following the said Government Order, respondent's service was brought under time scale of pay from 01.03.2006 i.e., after lifting of the ban order.

3. The said contention cannot be accepted in view of the fact that the respondent was appointed as Sweeper on 31.08.2001 i.e., three months prior to imposition of ban



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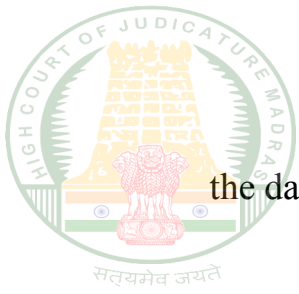
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order. Moreover, the ban order was issued only for fresh appointments. The respondent having been appointed as NMR in the year 1994 and in turn given the post of Sweeper on 31.08.2001, cannot be treated as fresh appointee. Hence the ban order cannot be applied to the respondent's case."

7. In the light of the above, the objection and the reasons assigned for not regularizing the services of the petitioner from the date of completion of one year of service namely, the ban imposed by the State, cannot be sustained and the said ban orders issued in G.O.Ms.No.212, dated 29.11.2001, have no application to the case of the petitioner as well, as the petitioner was appointed on consolidated monthly pay in terms of G.O.Ms.No.125, dated 27.05.1999, much prior to imposition of the ban orders i.e., from 15.05.2000.

8. In the light of the above, this Court does not find any justification for the respondents in refusing to allow the benefit of regular appointment to the petitioner with effect from 15.05.2001 and accordingly, this writ petition is allowed directing the respondents to consider the case of the petitioner for regular appointment with effect from 15.05.2001 without reference to the ban imposed by the State strictly in terms of G.O.Ms.No.125, dated 27.05.1999 and pass necessary orders, if the petitioner is otherwise eligible, as expeditiously as possible, at any rate, within a period of two (2) months from



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the date of receipt of a copy of this order.

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9. Accordingly, this writ petition is allowed. Connected miscellaneous petitions, if any, shall stand closed. No costs.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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Government of Tamil Nadu

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MUMMINENI SUDHEER KUMAR, J.

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