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W.A.No.1322 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.A.No.1322 of 2023

1. The Chief Secretary
State Commissioner for Physically Handicapped
No.15/1, Model School Road
Thousand Light, Chennai – 600 006.
2. The Commissioner
Commissionerate for Rural Development
4th & 5th Floor, Panagal Building
Jeenus Road, Saidapet
Chennai – 600 015.
3. The Collector
Kancheepuram District, Kancheepuram.
4. The Regional Development Officer
Kancheepuram District, Kancheepuram. .. Appellants

Vs.

1. A. Sakthivel
2. The President
Maannampadhi Village, Uthiramerur Taluk
Kancheepuram District. .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order dated 23.01.2023 made in W.P.No.7357 of 2016.

For the Appellants : Mr.M.Alagu Gowtham
Government Advocate



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For the Respondents : Mr.M.Nallathambi
for R1

Mr.K.Suresh
Government Advocate
for R2

JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

The first respondent *A.Sakthivel* was appointed as Overhead

Tank Operator by the second respondent Village Panchayat in the year 1999. Since then, he has been continuously working. The Government issued a Government Order in G.O.(Ms).No.151, Social Welfare and Noon-Meal Programme (SW-4) Department dated 16.10.2008. By the said Government Order, the Government announced a policy decision, under which, physically challenged persons who have been working in consolidated pay could be sanctioned and brought under regular time scale of pay.

2. Based on the said Government Order, when the first respondent/writ petitioner approached the appellant Department to consider him to bring under regular time scale of pay, that was rejected by the Village Panchayat through the order dated 10.07.2015. Challenging the same, the said writ petition was filed, seeking a Writ of Certiorarified Mandamus.



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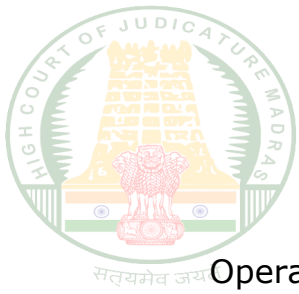
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3. The learned Writ Court, having considered the facts of the case and the import of G.O.(Ms).No.151, has come to the conclusion that as per G.O.(Ms).No.151, the first respondent/writ petitioner was entitled to get the benefit of time scale of pay and therefore, the said writ petition was allowed by setting aside the order impugned therein.

4. The said order of the Writ Court dated 23.01.2022 made in W.P.No.7357 of 2016 is under challenge in this intra-Court appeal.

5.1. Heard *Mr.M.Alagu Goutham*, learned Government Advocate appearing for the appellants, who would vehemently contend that the part-time Overhead Tank Operators are governed by the Government Order in G.O.(Ms).No.15, Rural Development and Panchayat Raj (E5) Department dated 07.02.2011. Under the said Government Order, those who have been already working under the consolidated pay have been given enhancement of pay, that too, by way of consolidate pay to Rs.2,000/- from 01.01.2011 along with an adhoc increase of Rs.40/- whenever Dearness Allowance is increased to the Government staff.

5.2. Based on G.O.(Ms).No.15, 43,364 Overhead Tank



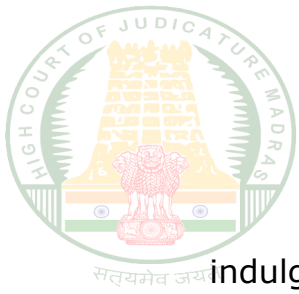
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Operators, who have been working as part-time employees, have been given the increased consolidated pay of Rs.2000/- with adhoc increase of Rs.40/-, as and when Dearness Allowance is increased to the Government staff. Apart from this benefit, no other benefits could be conferred upon the part-time Overhead Tank Operators like the present first respondent/writ petitioner and therefore, G.O.(Ms).No.151 cannot be applied to the case of part-time Overhead Tank Operators, as it applies only to full-time Overhead Tank Operators.

5.3. Therefore, the learned Government Advocate would submit that by applying the wrong G.O.(Ms).No.151, since the writ petition was allowed through the impugned order, it requires interference at the hands of this Division Bench, he contended.

6. We have heard *Mr.M.Nallathambi*, learned counsel for the first respondent/writ petitioner who had produced the letter dated 19.02.2011, issued by the President of the concerned Village Panchayat, where the first respondent/writ petitioner was appointed as Overhead Tank Operator and stated that his job is only a full-time job. When that being so, the arguments advanced on behalf of the appellants cannot be countenanced. Hence, he seeks



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indulgence of this Court to confirm the order passed by the Writ Court in allowing the said writ petition.

7. We have heard the rival submissions made by learned counsel appearing for both sides and have perused the materials placed before this Court.

8. If we look at the import of G.O.(Ms).No.151, it makes it very clear that for the physically challenged persons, their scale of pay may be sanctioned as to those physically challenged persons working in the Government Departments under consolidated pay for more than two years. Therefore, the condition was that the incumbent must be a physically challenged person or differently-abled person and he must have worked in consolidated pay for more than two years. The Government Order, no where, has stated that only those physically challenged persons, having worked for two years in full-time job alone would be entitled to seek such a benefit of bringing them under regular time scale of pay. In the absence of any such dichotomy in G.O.(Ms).No.151, dated 16.10.2008, such an interpretation cannot be sought, as has been projected by the learned Government Advocate appearing for the appellants.



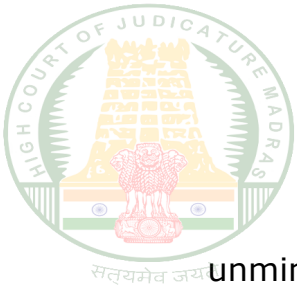
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9. Moreover, insofar as G.O.(Ms).No.15 is concerned, it was only enabling the enhancement of consolidated pay from Rs.1550/- to Rs.2000/-. That does not mean that those who have been working in consolidated pay would not be entitled to get regular time scale of pay.

10. There has been no conflict between G.O.(Ms).No.151 and G.O.(Ms).No.15. The reason being that, the G.O.(Ms).No.151 was issued by the Social Welfare and Noon Meal Programme Department for all such employees who are physically challenged. Whereas, G.O.(Ms).No.15 was issued by the Rural Development and Panchayat Raj Department only to enhance the consolidated pay being paid to the Overhead Tank Operators, who have been working in part time.

11. Therefore, this is a case where the first respondent/writ petitioner sought relief of bringing him under regular time scale of pay, which is dealt with only in G.O.(Ms).No.151, because the first respondent/writ petitioner is a physically challenged person or differently-abled person. Once he became a differently-abled person, his case has to be fit in only under G.O.(Ms).No.151,



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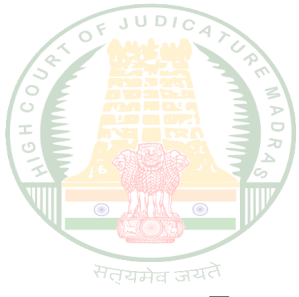
unmindful of G.O.(Ms).No.15, as G.O.(Ms).No.15 would not state in anywhere to extend the benefits to the differently-abled persons, who are in different sector, as has been projected in G.O.(Ms).No.151.

12. Therefore, there is every justification on the part of the Writ Court in giving such reasons and conclusion, thereby, allowing the writ petition through the impugned order. Hence, the impugned order does not warrant any interference at our hands. The result of which, the present appeal fails, hence, it is dismissed. However, there shall be no order as to costs. Consequently, C.M.P.No.13031 of 2023 is closed.

(R.S.K., J.) (A.D.M.C., J)
26.03.2025

Neutral Citation:Yes/No

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R. SURESH KUMAR, J.
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