

THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.03.2025

PRONOUNCED ON : 25.03.2025

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CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A.No.2952 of 2024
and
C.M.P.No.21955 of 2024**

The Executive Officer,
Panapakkam Town Panchayat,
Ranipet District.

...

Appellant

versus

1.S.Dayalan,
S/o.Sahadevan,
No.240, Mettu Street,
Kalthur Post, Panapakkam,
Ranipet District.

2.The Secretary to Municipal Administration
and Water Supply Department,
Fort St.George, Chennai - 9.

3.The Director of Town Panchayat,
8th Floor, Santhome High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai - 600 028.

...

Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order passed in W.P.No.17878 of 2020 dated 30.10.2023.



For Appellant : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.C.Selvaraj
Additional Government Pleader

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For Respondents : Mr.P.I.Thirumoorthy - R1

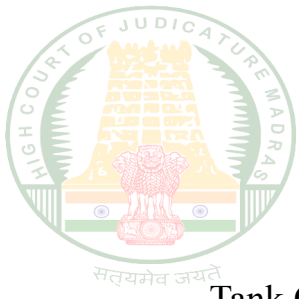
Mr.P.Ananda Kumar
Government Advocate - R2 & R3

JUDGMENT

(Judgment of the Court was made by **G.ARUL MURUGAN, J.**)

Challenge in this appeal is to the order of the writ court dated 30.10.2023 in W.P.No.17878 of 2020, wherein the authorities were directed to regularise the services of the first respondent in the category of Overhead Tank Operator or Sweeper with effect from 11.09.2001.

2. The first respondent herein claimed to have been appointed in the year 1990 as Nominal Muster Roll (NMR) in the Public Works Department (PWD) to deal with the Overhead Tank maintenance in the town panchayat. Since the Overhead Tank maintenance work was handed over to the town panchayat, the first respondent was absorbed as NMR for the appellant town panchayat in the year 1995 on consolidated pay.



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3. The first respondent was carrying out the work of Overhead Tank Operator and also Night Watchman and in effect he was in the services of the appellant panchayat both during the day and night. Based on G.O.(Ms.)No.198 Municipal Administration and Water Supply Department dated 26.10.1998 [hereinafter referred to as “G.O.(Ms.)No.198 dated 26.10.1998”], by which the NMRs who had been working as on 01.10.1996 were brought under regular employment in the sanctioned posts and the benefits were extended to several persons, the first respondent also made a claim on 01.09.2001 for absorbing him under regular time scale.

4. The appellant panchayat had also passed a Resolution in No.57 to absorb the first respondent under regular time scale. However, since the benefits were not extended, claiming that out of 30 years of total service, he had rendered 24 years of continuous service in the appellant panchayat itself, till he was made to work through the Self Help Group in the year 2019 and as vacancies available were sought to be filled up, the first respondent had preferred the writ petition for a direction to bring him under regular time scale based on the Resolution of the appellant panchayat.

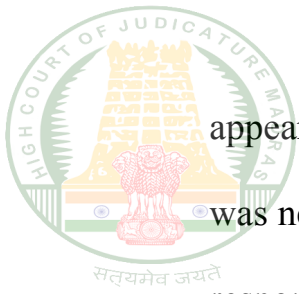


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5. The appellant had resisted the claim by denying that the first respondent was ever employed by them and further, they had been doing the work by entering into a contract with one Self Help Group in respect of handling the process of solid waste management.

6. The writ court after finding that the first respondent had been employed by the appellant panchayat from the year 1995 and considering G.O.(Ms.)No.198 dated 26.10.1998, by which the casual workers who have been on consolidated pay as on 31.12.1996 could be considered for bringing them under regular time scale of pay and also observing that the Self Help Group Scheme had been introduced only in the year 2019 whereas the first respondent was working from the year 1995 onwards, had allowed the writ petition. The respondents in the writ petition were directed to bring the first respondent / writ petitioner under regular time scale of pay either in the category of Overhead Tank Operator or Sweeper with effect from 11.09.2001 by extending the benefits of G.O.(Ms.)No.198 dated 26.10.1998. Assailing the said order, the appellant panchayat, is on appeal.

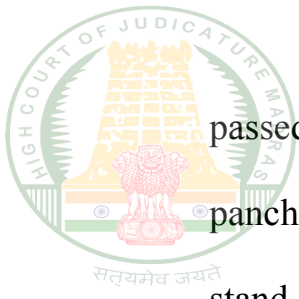
7. Mr.R.Neelakandan, learned Additional Advocate General, instructed by Mr.C.Selvaraj, learned Additional Government Pleader,



appearing for the appellant vehemently contended that, the town panchayat was never allowed to engage the services of the first respondent and the first respondent was never in direct employment with the town panchayat. It is his further contention that when the town panchayat had executed the works through the Self Help Group, the first respondent could not claim the benefits under G.O.(Ms.)No.198 dated 26.10.1998 and the learned Judge had extended the benefits, which will not be applicable to the first respondent.

8. It is his further contention that the Overhead Tank operation work was, in fact, carried out by one person, namely Mr.Sampath, who had been in-charge of Kalathur Water Pumping Station. He also submitted that the first respondent's appointment is not through a proper selection process and when the appointment itself was irregular, the benefit of bringing him under regular time scale or regularisation does not arise, as it would be in violation of the decision of the Hon'ble Supreme Court in the case of *Secretary, State of Karnataka and others Vs. Umadevi and others* reported in (2006) 4 SCC 1.

9. Contending contra, Mr.P.I.Thirumoorthy, learned counsel for the first respondent submitted that the first respondent was absorbed in the services of the appellant panchayat in the year 1995 and when they have



passed a Resolution to absorb him under regular time scale of the town panchayat, which was passed in G.O.(Ms.)No.198 dated 26.10.1998, the stand now taken that he was never in the services is an afterthought, only to deny the benefits which the first respondent is otherwise entitled to.

10. It is his further contention that by extending the benefits of G.O.(Ms.)No.198 dated 26.10.1998, several persons have been absorbed in regular services and the town panchayat by making a false claim is only trying to evade from absorbing the services of the first respondent. The writ court, after finding that the first respondent was in the services of the town panchayat, had directed for bringing him under regular time scale of pay, which is perfectly justified and sought for dismissal of this writ appeal.

11. Heard the rival submissions and perused the materials available on record.

12. The Government has issued G.O.(Ms.)No.198 dated 26.10.1998, by which those casual workers working on a consolidated pay as on 31.12.1996 could be considered for bringing them under regular time scale of pay. In fact, even certain posts were allowed to be filled up on



consolidated pay for one year and later the appointment could be renewed continuously for 3 years and based on their performance, their work may be reviewed and recommended to the Government for being appointed in a time scale of pay.

13. It is the claim of the first respondent that he was originally engaged as NMR in the Public Works Department in the year 1990 as Overhead Tank Operator and later he was absorbed as NMR in the appellant panchayat in the year 1995 on a consolidated pay. He was carrying out the duties of Overhead Tank Operator and Night Watchman. As such, out of his service for nearly 30 years, he had served in the appellant panchayat alone for the past 24 years. Since he was in service of the appellant panchayat as on 31.12.1996, he had made a claim to absorb him in the regular time scale of pay based on G.O.(Ms.)No.198 dated 26.10.1998.

14. The appellant had only resisted the claim denying that he had been in their employment and also had taken a stand that the work of the solid waste management had been executed through the Self Help Group. It is their vehement contention that the first respondent had failed to prove that he was under the employment of the appellant panchayat to make a claim for absorption based on the aforesaid Government Order.



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15. In this regard, it is useful to refer the very Resolution passed by the appellant itself on 11.09.2001. For easy reference, the Resolution is extracted hereunder:-

“பனப்பாக்கம் பேரூராட்சியின் 11-09-2001 ஆம் ஆண்டு தேதியில் நடைபெற்ற சாதரண கூட்டத்தில் நிறைவேற்றப்பட்டுள்ள 57 எண்ணுள்ள தீர்மான உண்மை நகல்.

பொருள் எண் : 57

பனப்பாக்கம் பேரூராட்சியில் குடிநீர் பராமரிப்பில் களத்தூர் குடிநீர் மின் மோட்டார் இயக்குபவர் மற்றும் காவலர் திரு.எஸ்.தயாளன் என்பவர் சுமார் 6 வருட காலமாக பணிபுரிந்து வருகிறார். ஏனவே அவரை பேரூராட்சியில் ஈர்த்துக்கொள்ள மன்றத்தின் பார்வைக்கும் அனுமதிக்கும்.

தீர்மான எண் : 57

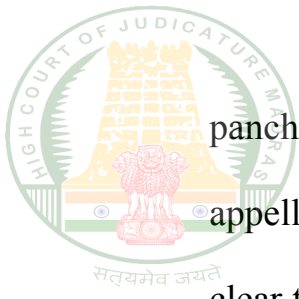
அங்கீகரிக்கப்பட்டது.

(ஓம்) டி.ஜோதி
தலைவர்
பனப்பாக்கம் பேரூராட்சி

/ உண்மை நகல் /

செயல் அலுவலர்
பனப்பாக்கம் பேரூராட்சி
வேலூர் மாவட்டம்”

16. From the Resolution dated 11.09.2001 passed by the appellant panchayat, it could be seen that the first respondent had been working as Overhead Tank Operator and also Night Watchman for the past 6 years and as such, it has been resolved to absorb him in the services of the town



panchayat. When the Resolution reads that he was in the services of the appellant panchayat for the past 6 years as on 11.09.2001, it is evidently clear that the first respondent had been in the services of the town panchayat from the year 1995 onwards.

17. Only since the G.O.(Ms.)No.198 dated 26.10.1998 facilitated the NMRs working on a consolidated pay as on 31.12.1996 were allowed to be brought in regular time scale of pay on completion of 3 years of service, considering the fact that the first respondent had been in service from the year 1995, the appellant panchayat has rightly extended the benefits of the Government Order and has passed the Resolution No.57 dated 11.09.2001 by which the first respondent was resolved to be absorbed in the services of the town panchayat.

18. In fact, even in the affidavit filed in support of the above appeal in paragraph 3, it is averred that the Resolution of town panchayat cannot be the final step for regularisation of post, unless there was vacancy in sanctioned post at the corresponding period. Further, in paragraph 10 of the affidavit, it is averred that by proceedings dated 31.07.2000, the Government accorded permission for filling up two sanctioned posts for which one P.Nirmalraj and G.Sundaramurthy were considered and absorbed in the

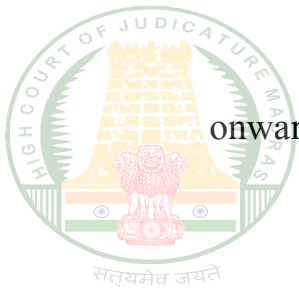


sanctioned posts, since they were seniors to the first respondent.

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19. The very Resolution passed by the appellant panchayat as referred above and the stand taken by the appellant that this Resolution alone will not be final for regularisation and in the year 2000 two persons were absorbed, since they were seniors to the first respondent, would amply go to show that the first respondent was in service as NMR on a consolidated pay in the appellant panchayat and therefore the arguments sought to be advanced that he was never in employment cannot be accepted and are therefore rejected.

20. Insofar as the contention that the appellant panchayat had executed the solid waste management work through the Self Help Group, the writ court had observed that the Self Help Group scheme had been introduced by the appellant in the year 2019, whereas the first respondent had been working from the year 1995 onwards. Further as referred above, the carrying out of the collection of door-to-door garbage and handling the process of solid waste management, which was also later in point of time, was completely different from the work executed by the first respondent, which is Overhead Tank Operator and Night Watchman from the year 1995



onwards.

W.A.No.2952 of 2024

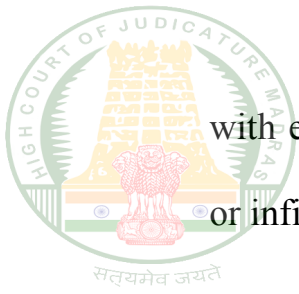


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21. The posts of Overhead Tank Operator and Sweeper are coming under the basic services and when the nature of duties performed is not seasonal and they have been regularly engaged for the work, which is permanent in nature, it has been held by the Full Bench of this Court in *M.Sivappa Vs. The State of Tamil Nadu* reported in *2024 (2) CTC 1*, in which one of us (*R.Subramanian, J.*) is a party, that irrespective of the nature of service, the employees who had rendered service in any one of the posts enumerated under the basic service are entitled for regularisation on the completion of 10 years of service.

22. Further, the Hon'ble Supreme Court in the case of *Shripal and another Vs. Nagar Nigam, Ghaziabad* reported in *2025 SCC OnLine SC 221* has held that the employer cannot exploit the services of the workman for a long period of time and deny the claim of regularisation by taking shield by relying on the decision in *Umadevi's* case.

23. The writ court, after finding that the first respondent had been in the services of the appellant panchayat from the year 1995 and since he was entitled for the benefits under G.O.(Ms.)No.198 dated 26.10.1998, had directed to bring the first respondent under regular time scale of pay only



with effect from 11.09.2001 i.e., on completion of 3 years. We see no error or infirmity in the order of the learned Judge, which requires interference.

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24. Accordingly, the Writ Appeal stands ***dismissed***. However, six (6) weeks time from the date of receipt of a copy of this order, is granted to comply with the directions issued by the Writ Court. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

(R.S.M., J.) (G.A.M., J.)
25.03.2025

Speaking order

Index : Yes

Neutral Citation : Yes

sri

To

- 1.The Secretary to Municipal Administration
and Water Supply Department,
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8th Floor, Santhome High Road,
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W.A.No.2952 of '24



R.SUBRAMANIAN, v.
and
G.ARUL MURUGAN, J.

sri

Pre-Delivery Judgment made in
W.A.No.2952 of 2024
and
C.M.P.No.21955 of 2024

25.03.2025