



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.01.2025

PRONOUNCED ON : 24.03.2025

CORAM:

**THE HON'BLE DR.JUSTICE ANITA SUMANTH
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

W.A.No.2229 of 2018

R.Prabhavathi

...

Appellant /
Petitioner

versus

1.The Government of Tamil Nadu,
Represented by the Secretary,
Municipal Administration and
Water Supply Department,
Fort St.George, Chennai - 600 009.

2.The Assistant Director of Town Panchayats,
Salem Division, Salem.

3.The Executive Officer,
Selection Grade Town Panchayat,
Mallasamudram,
Namakkal District.

...

Respondents /
Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent against
the order dated 30.07.2018 in W.P.No.22036 of 2015.



WEB COPY

W.A.No.2229 of '15



For Appellant : Mr.V.Raghavachari
Senior Counsel
for Ms.K.Abirame

For Respondents : Mr.R.Neelakandan
Additional Advocate General
Assisted by Mr.C.Selvaraj
Additional Government Pleader - R1 & R2

Mr.K.Arun Babu - R3

J U D G M E N T

[*Judgment* of the Court was made by **G.ARUL MURUGAN, J.**]

This intra-court appeal is directed against the order dated 30.07.2018 in W.P.No.22036 of 2015, wherein the claim for regularisation of the services of the appellant based on G.O.(Ms.)No.199 Municipal Administration and Water Supply Department dated 12.08.1997 came to be dismissed.

2. The appellant claims to have been appointed as sanitary worker in the year 2005 in the third respondent Town Panchayat and had submitted an application for regularisation of her service. According to the appellant, since G.O.(Ms.)No.199 dated 12.08.1997 came to be issued whereby, the sanitary workers appointed in the Municipalities will be renewed for 3 years on consolidated pay and on completion of 3 years, it can be examined as to



whether they could be appointed in the regular scale of pay or not, the claim could be considered.

WEB COPY

3. It is the claim of the appellant that she had been regularly working in the third respondent Town Panchayat and her name finds place in the Nominal Muster Roll (NMR), where she had daily signed the attendance and the disbursement of salary had been made directly to the workers. Even though there was no response to the application for regularisation, the appellant was called on 27.03.2013 to attend the interview for selection to the same post along with the certificates, but however, there was no further progress. In the meantime, since orders were passed for regularisation of the services of the sanitary workers, the appellant had preferred the writ petition to direct the respondents to regularise the service.

4. The respondents have refuted the claim by filing a counter affidavit, had *inter alia* contended that the appellant was never directly employed by them and in fact, she is a member of 'Subamathi Women Self Help Group' who had entered into a contract with the third respondent Town



WEB COPY

Panchayat for door to door collection of garbage in a moving cart under the solid waste management scheme.

5. The appellant along with 11 other members, had entered into a contract with the third respondent Town Panchayat and had been carrying on the said work. The writ court, after considering the issue, by order dated 30.07.2018, rejected the claim of the appellant on the ground that the employee who had been appointed without following the recruitment rules and had a back-door entry could not claim for regularisation of her services in view 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. Assailing the impugned order, the writ petitioner had preferred the above appeal.

6. Mr.V.Raghavachari, learned Senior Counsel for Ms.K.Abirame, appearing for the appellant contended that, the appellant was employed by the third respondent Town Panchayat and she was made to sign in the attendance and the salaries were distributed. It is his further contention that when the respondents contended that the work was entrusted



to the self help group based on the agreement and when no such agreement has been produced before this Court, then the very stand taken by them to be a contractual work cannot be sustained.

7. Learned Senior Counsel further contended that when the appellant had been working in the third respondent Town Panchayat from the year 2005, on completion of 3 years, she is entitled for regularisation based on G.O.(Ms.)No.199 dated 12.08.1997 and in fact, several sanitary workers in the Town Panchayats had obtained favourable orders for regularisation. He also contended that even assuming that the appellant had been a member of a self help group, that will not take away the employer-employee relationship between the appellant and the third respondent Town Panchayat and the claim for regularisation cannot be denied.

8. Learned Senior Counsel by relying on the decision of the Division Bench of this Court in the case of ***Government of Tamil Nadu Vs. Palaniyammal and others [W.A.Nos.766 and 767 of 2016 dated 29.02.2024]*** contended that even in that case where the respondents sought to deny the claim on the ground that the work had been executed through



WEB COPY

the self help group and the regularisation cannot be granted in view of the contractual employment, the Division Bench had dismissed the writ appeals with costs confirming the order of the writ court in directing to regularise the services and had also ordered for appropriate disciplinary proceedings against the authorities.

9. Mr.R.Neelakandan, learned Additional Advocate General for Mr.C.Selvaraj, learned Additional Government Pleader, appearing for the respondents 1 and 2 by producing the documents including the original file containing the resolutions along with the minutes book submitted by the self help groups, resolutions passed and bank payment vouchers for having paid the amounts in the accounts of the self help group contended that, the appellant was never employed by the third respondent Town Panchayat directly and all along the Town Panchayat had only entrusted the sanitary work for collection of garbage to the self help groups.

10. It is his further contention that the third respondent Town Panchayat had never made any direct payment to the appellant and in fact, only to ensure the number of persons who carry on the work, is maintained

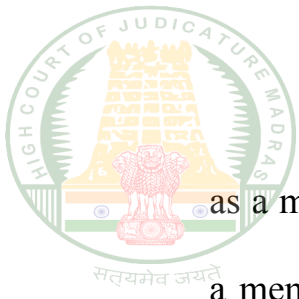


by attendance for the disbursal of the payments to the self help group based on the number of persons, who worked on each day.

WEB COPY

11. The learned Additional Advocate General by relying on the Circular dated 24.06.2008 issued by the Commissioner of Town Panchayat, submitted that already instructions to the Town Panchayat have been issued, to carry on the collection of garbage through the self help groups and NGOs by entering into the agreements with them. He further distinguished the decision relied on by the appellant by submitting that in that case, documents were found wherein the services were directly engaged by the Town Panchayat and salary has been paid directly to them. Further, since the Attendance Register and all records were found by the Amicus Curiae appointed by the writ court and in the appeal contra evidence was filed which was not found to be correct, the Division Bench after confirming the orders of the writ court for regularisation had directed for further disciplinary proceedings.

12. However, in the instant case, no such records are available and on the contrary, all the records wherein the appellant had executed the work



WEB COPY

as a member of the self help group by passing resolutions in the capacity as a member and officer bearer had also received payments in the account of self help group. The writ court, after appreciating the above facts, had rightly dismissed the writ petition, which needs no interference and sought for dismissal of the writ appeal.

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

14. The appellant claims to have been appointed as sanitary worker by the third respondent Town Panchayat in the year 2005. It is her claim that after being directly engaged, her name was entered in the NMR Register, where she had signed in the attendance every day and the salary had been directly paid by the Town Panchayat to the appellant.

15. On that basis, the appellant had come up with the claim to regularise her services in view of G.O.(Ms.)No.199 dated 12.08.1997, which allows the sanitary workers employed by the Town Panchayats to be continued for 3 years on consolidated basis and thereafter, those workers



could be evaluated for being examined as to whether they could be appointed in a regular scale of pay or not.

WEB COPY

16. At this stage, it is to be noted that even though the appellant has come up with such a claim, sufficient opportunity was provided to the appellant to produce records like the appointment order, or any record to show that the appellant was directly engaged by the third respondent Town Panchayat or any record to substantiate that the payments were made directly by the Town Panchayat to the appellant. However, no such record has been produced to show that she was appointed directly by the third respondent Town Panchayat and there existed the employer-employee relationship and the wages were paid directly to her.

17. Learned Additional Advocate General had relied on the Circular dated 24.06.2008 of the Commissioner of Town Panchayat, Chennai, to contend that the guidelines have been issued whereby the Town Panchayats were instructed to carry on the collection of door to door garbage by entrusting the work to the self help groups and NGOs who will be assigned to carry on the work in tricycles after segregating the different



WEB COPY

natures of the garbage. It is submitted that based on this guidelines, the third respondent Town Panchayat had been carrying on the work of collecting door to door garbage by entrusting the work to the self help groups.

18. In this regard, the learned Additional Advocate General had submitted that the original passbook containing the bank payment vouchers of the third respondent Town Panchayat. The bank payment voucher dated 09.06.2006 in No.75/06-07 shows that a sum of Rs.5,124/- had been approved and paid by the Enquiry Officer of the Town Panchayat in Cheque No.089668 in favour of Subamathi Women Self Help Group, Mallasamudram. The narration shows that it has been paid to the self help group for the garbage segregation of biodegradable and non-biodegradable garbage for the months of April 2006 and May 2006.

19. The corresponding NMRs for the above period is enclosed, where 3 persons worked including the appellant. Likewise, vouchers dated 17.08.2006, 19.09.2006, 11.08.2008, 19.09.2008, 02.06.2009 and also the vouchers of the years 2007 and 2010 are annexed. The payment voucher dated 05.01.2010 in No.344/09-10 shows that an amount of Rs.28,910/- was



paid through Cheque No.120219 to Subamathi Women Self Help Group towards the garbage collection and disposal.

WEB COPY

20. The corresponding NMR Attendance Register, where the details of 14 members who had worked including the appellant in the month of December 2009, for which a total sum of Rs.28,910/- was paid to Subamathi Women Self Help Group is annexed. Further, a copy of the bank passbook of Subamathi Women Self Help Group in which this payment has been credited is also enclosed along with the records. From these documents, it reveals that the third respondent Town Panchayat, had been carrying on the work of collecting door to door garbage by entrusting the work through this self help group.

21. At this juncture, it is also relevant to note that, when the third respondent Town Panchayat decided to appoint one sanitary worker, the appellant had applied and the third respondent had issued notice calling her for an interview by proceedings dated 19.03.2013. The appellant was directed to appear in the interview along with all the original certificates, for which the appellant had readily agreed and participated in the selection.



WEB COPY

However, the appellant was not successful in the selection made by the third respondent Town Panchayat. Pursuant to which, the appellant had come up with the above claim for regularisation of the services from the year 2005 and sought benefits under G.O.(Ms.)No.199 dated 12.08.1997.

22. The learned Additional Advocate General had further produced the records submitted by Subamathi Women Self Help Group containing the resolutions passed and the work entrusted by them. The resolution no.1 dated 26.02.2015 of this self help group reads that it is resolved to carry out the work of garbage disposal through 12 members of the self help group based on the tender price of Rs.238/- in confirmation to the tender conditions in the notice. The agenda was placed before the self help group and the appellant as a representative for all the other 11 members has signed the resolution to carry out the tender work.

23. The resolutions passed for the other months are also produced and the resolution no.6 dated 22.06.2015 resolves that the payment for the works executed by the self help group can be credited to the Mallasamudram Union Bank of India by crediting a sum of Rs.58,072/- in



WEB COPY

the name of Subamathi Women Self Help Group. The payments to be divided among the members had also been listed out, in which all the members of the self help group including the appellant had signed.

24. The Subamathi Women Self Help Group, by resolution dated 24.12.2015, in which the appellant is a member and signatory had resolved that in view of the difference of opinion between the members of the self help group, they have decided to stop the execution of the disposal of garbage work with the third respondent Town Panchayat and the resolution has been passed and intimated to the Town Panchayat. Thereafter, a new self help group in the name of Amman Women Self Help Group, Mallasumudram, has been formed in which the appellant is a member and the work has been continuously executed from the year 2016 onwards.

25. The resolutions for all the subsequent months are enclosed and in fact, the resolution no.2 for the month of May 2022 shows that there are 28 members in Amman Women Self Help Group and the contractual amount of Rs.2,92,205/- for the month of April 2022 has been resolved to



ask the Town Panchayat to credit the amount to the account of Amman WSHG in which also the appellant is a member.

WEB COPY

26. In view of the above overwhelming documents, it is evident that the appellant had been carrying on the work of disposal of garbage in the third respondent Town Panchayat as a member of the self help group and the work had been carried on by entrusting the same to the self help group and the payments had been made by the Town Panchayat to the self help group. The appellant who had been a member of the self help group, had in fact signed all the resolutions from the year 2006 and also as a representative of the other members.

27. Having been a member of the group and having carried on the work of the garbage disposal for the Town Panchayat, when the Town Panchayat sought to fill up a post of sanitary worker in the year 2013, the appellant readily participated in an interview without demur, but however, was unsuccessful in the selection process. The appellant had also been carrying out the contract work of garbage disposal through the self help group, particularly Subamathi Women Self Help Group till the year 2015



WEB COPY

and having resolved to wind up the services, had become a member of Amman Women Self Help Group in the year 2016 and is in the process of executing the works and receiving the payments through the self help group even till 2022. As such, the claim of the appellant that she had been engaged directly by the Town Panchayat from the year 2005 and the wages has been paid directly to her cannot be accepted.

28. Moreover, when the appellant has not produced any material to this effect to substitute her claim, then the unimpeached materials produced on the side of the respondents would go to show that these works have been carried on by the Town Panchayat only through the contract works entrusted to the self help groups.

29. Insofar as the decision relied on by the appellant in respect of another Town Panchayat, as rightly contended by the learned Additional Advocate General, there the writ court through the Amicus Curiae, found that the sanitary worker was directly engaged by the Municipality therein and also there were documents available to show that the wages has been paid directly by the Town Panchayat. In such circumstances, the writ court



WEB COPY

had directed for regularisation of the services. The same will not enure to the benefit of the appellant in view of the facts of the present case, where it has been demonstrated through ample documents that the works of the Town Panchayat had been executed through the self help group.

30. Moreover, when the appellant herself is a member of Amman Women Self Help Group and had been carrying on the contractual work even from the year 2006 by passing resolutions of the self help group and in fact, the appellant having represented the other members for all these years, the claim of the appellant that she had been engaged directly by the Town Panchayat cannot be accepted.

31. In view of the above, we do not find any error or infirmity in the decision of the writ court in rejecting the claim of the appellant for regularisation of the services, as the appellant had not been engaged by the third respondent Town Panchayat and therefore, the benefits as claimed under G.O.(Ms.)No.199 dated 12.08.1997 are not applicable.



WEB COPY

32. In such circumstances, the claim of the appellant fails and accordingly, this Writ Appeal stands ***dismissed***. There shall be no order as to costs.

[A.S.M.J.] [G.A.M.J.]
24.03.2025

Speaking order

Index : Yes

Neutral Citation : Yes

sri

To

1.The Secretary,
Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St.George, Chennai - 600 009.

2.The Assistant Director of Town Panchayats,
Salem Division, Salem.



WEB COPY

W.A.No.2229 of '18



Dr. ANITA SUMANTH, J.
AND
G.ARUL MURUGAN, J.

sri

Pre-Delivery Judgment made in
W.A.No.2229 of 2018

24.03.2025