



W.P.(MD).No.9567 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 31.10.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.9567 of 2018

and

W.M.P(MD) Nos.8815 of 2018 and 21337 of 2025

R.Pillaiyarsamy

... Petitioner

Vs.

1. The Principal Secretary to Government,
Handloom, Handicrafts, Textiles and
Khadi Department,
Fort St.George,
Chennai – 600 009.

2. The Secretary to Government,
Commercial Taxes & Registration Department,
Fort St. George,
Chennai – 600 009.

3. The Personal Assistant to Inspector General of
Registration,
O/o. Inspector General of Registration,
100, Santhome High Road,
Chennai.

4. The District Registrar,
O/o. District Registrar,
Katcheri Road,
Virudhunagar.

... Respondents



W.P.(MD).No.9567 of 2018

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records pertaining to the impugned letter of the first respondent in கடித எண் 2928/எப் 1/2016-8, dated 19.12.2017 consequential letter of the third respondent in எண் 54633/அ3/2015 dated 09.03.2018 and quash the same as illegal and unlawful.

For Petitioner : Mr.J.Pooventhera Rajan

For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader

ORDER

The present Writ Petition has been filed by a retired employee of the Registration Department seeking to quash the two letters issued by the respondents 1 and 3 dated 19.12.2017 and 09.03.2018, wherein the Selection Grade conferred upon the writ petitioner has been cancelled.

2. Admittedly, the petitioner was initially employed in Kadhi Board and he was absorbed in the Commercial Tax and Registration Department in the year 2010. The absorption is governed by G.O.(Ms). No.154 (Handloom, Handcrafts, Textiles and Khadi (F2) Department), dated 21.11.2009. As per the said Government Order, the employee would be treated as a fresh



W.P.(MD).No.9567 of 2018

appointee. Though he would be entitled for pay protection, he would not be entitled for service protection. This Government order was clarified by another Government Order issued in G.O.(Ms)No.152 (Handloom, Handicrafts Textiles and Khadi (F1) Department, dated 12.07.2012 wherein, it was clarified that the period of service in Kadhi Board could be taken into consideration only for the pension purpose.

3. The petitioner was granted Selection Grade in the year 2013 while he was working in the Registration Department, taking into consideration his past services in the Khadi Board. Now, through the impugned letter dated 19.12.2017, the first respondent herein clarified that there is no service protection to the employees absorbed in the Registration Department, and therefore, the Selection Grade ought not to have been granted, relying upon the past services in the Khadi Board. This letter was reiterated by the third respondent in his communication dated 09.03.2018, which is put to challenge in the present Writ Petition.

4. According to the learned counsel appearing for the writ petitioner, a similar issue arose before the Principal Bench in W.P(MD) No.6878 of



W.P.(MD).No.9567 of 2018

2023, dated 19.09.2023, wherein this Court has allowed the Writ Petition. He further submitted that the Writ Appeal filed by the Joint Commissioner was dismissed by the Hon'ble Division Bench of this Court on 02.12.2024 in W.A(MD) No.2459 of 2024.

5. Per contra, the learned Additional Government Pleader appearing for the respondents relying upon the order of the learned Single Judge in W.P. (MD) Nos.4597 to 4601 of 2022, dated 16.03.2022 submitted that once the employee has been absorbed without any service protection, they cannot rely upon the past services and therefore, the disbursement of Selection Grade is illegal. Hence, he prayed for sustaining the order passed by the authorities.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

7. A perusal of G.O.(Ms) No. 154 (Handloom, Handcrafts, Textiles and Khadi (F2) Department), dated 21.11.2009, cited supra would clearly reveal that the employees are entitled to pay protection. In such circumstances, it is



W.P.(MD).No.9567 of 2018

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clear that if the petitioner herein had worked in the Khadi Department, he would be entitled to receive the Selection Grade Pay Scale. The Government has declared the petitioner and other excess employees in the Khadi Department were absorbed in the Registration Department. In such circumstances, it is clear that as per Clause 8 of G.O (Ms) No.154 (Handloom, Handcrafts, Textiles and Khadi (F2) Department), dated 21.11.2009, the case of the petitioner is protected. That apart, the payment was not disbursed based upon any misrepresentation on the part of the writ petitioner. Admittedly, the petitioner has attained superannuation in the year 2020.

8. The Judgment of the Hon'ble Division Bench of this Court in W.A. (MD) No.2459 of 2024 dated 02.12.2024, paragraph Nos.9 and 10 has held as follows:-

.... 9. When the employees of Kadhi Board were ordered to be absorbed in other Government departments, G.O.Ms.No.154 came to be passed with a specific clause that these employees will have the benefit of pay protection, but cannot be extended with service protection. However,



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W.P.(MD).No.9567 of 2018

G.O.Ms.No.152 brought forth an amendment to G.O.Ms.No.154, by incorporating service protection also, as evident in the aforesaid extract. The second portion of the Government order clarifies that the service rendered by these employees in the Kadhi Board should also be included for calculating the pensionary services. Thus, all the erstwhile employees of Kadhi Board were ultimately extended with pay protection, service protection and pensionary benefits by calculating their service period rendered at Kadhi Board. We are not in a position to give any other meaning to G.O.Ms.No.152, apart from what has been categorically stated therein. It is for this reason that we have held that we do not agree with the ground raised by the learned Additional Government Pleader.

*10. The learned Single Judge had also rightly considered the intention of the Government in G.O.Ms.No.152 and had allowed the writ petitions. This apart, the learned Single Judge had also placed reliance on the decision in a similar writ petition, in which a reference has also been made to the case of **State of Punjab and Others v. Rafiq***



W.P.(MD).No.9567 of 2018

Masih (White Washer's case) [2015 (4) SCC 324]
and held that recovery from Group 'C' and Group 'D' employees is impermissible in law. It would be pertinent to point out here that the Supreme Court in White washer's case has held that recovery from employees, when the excess payment has been made for a period of excess of five years before the order of recovery is issued, is also impermissible in law, which proposition would also apply to the facts in the present cases."

9. In view of the above said deliberations, the order impugned in the Writ Petition is liable to be set aside and accordingly set aside. This Writ Petition stands allowed. There shall be no order as to costs. Consequently connected Miscellaneous Petitions stand closed.

31.10.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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W.P.(MD).No.9567 of 2018

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W.P.(MD).No.9567 of 2018

R.VIJAYAKUMAR,J.

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W.P(MD)No.9567 of 2018

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