



W.A.(MD) No.459 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

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- 1.The State
represented by
the Secretary to Government
Municipal Administration and
Water Supply Department
Secretariat, Chennai-9
- 2.The Director of Town Panchayats
Kuralagam
Chennai-600 108
- 3.The District Collector
Collectorate
Virudhunagar Post and District
- 4.The Executive Officer
Seithur Selection Grade
Town Panchayat
Seithur Post-626 121
Rajaalayam Taluk
Virudhunagar District

... Appellants

-vs-

Kavitha

... Respondent



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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 12.05.2017, passed in W.P.(MD) No.16929 of 2014, on the file of this Court.

For Appellants : Mr.S.P.Maharajan
Special Government Pleader

For Respondent : Mr.C.Lakshmanan

J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

Under assail is the writ order dated 12.05.2017, passed in W.P. (MD) No.16929 of 2014.

2. The respondent states that she has completed 8th standard and registered her name in the District Employment Exchange and renewed her registration periodically. The respondent has been engaged as a Sweeper in Seithur Selection Grade Town Panchayat under Arunthathiar Women Self-help Group on consolidated pay. Since the respondent was serving for a long time, she made a request to the authority concerned to absorb her in the regular



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time scale of pay. Since her request was not considered, the respondent earlier filed a writ petition before this Court in W.P.(MD) No.8992 of 2013 seeking a direction to the appellants to absorb her in regular time scale of pay either as Sweeper or in any other equivalent cadre in the basic service, as per the employment seniority. The learned Single Judge, by an order dated 06.06.2013, elaborately considered the issues and dismissed the said writ petition on merits. Even after dismissal of the said writ petition, the respondent was permitted to continue in service. Thereafter, she filed another writ petition in W.P.(MD) No.16929 of 2014 with a similar relief to direct the appellants to absorb her in regular time scale either as Sweeper or any other equivalent cadre in basic service as per the orders issued by the Government in G.O.Ms.No.385, Finance (Salaries) Department, dated 01.10.2010 and regularize her service with all attendant and monetary benefits and the said writ petition came to be allowed by the impugned order. Challenging the same, the State has preferred the present writ appeal.

3. Learned Special Government Pleader appearing for the appellants submitted that challenging the order dated 06.06.2013 dismissing the writ petition in W.P.(MD) No.8992 of 2013 filed by the respondent, the



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respondent filed W.A.(MD) No.852 of 2013 and the same was subsequently dismissed as withdrawn by judgment dated 06.06.2017 and therefore, the present round of litigation with the very same relief is not maintainable.

4. However, this Court is inclined to consider the case on hand on merits.

5. Learned counsel for the respondent would submit that the Panchayat passed a resolution to engage the respondent, but no order of appointment was issued.

6. Even then, the respondent in her own affidavit filed in support of the writ petition has stated that she was engaged by a self-help group. Engagement by such a self-help group cannot be construed as an appointment in the Government Departments or Panchayat Unions. Unless the competent authority, in accordance with the recruitment rules in force, appoints a candidate, such a candidate cannot claim any benefit under the Service Rules as applicable to the Government employees.



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7. All appointments are to be made strictly in accordance with the service rules in force. Equal opportunity in public employment is the constitutional mandate. Lakh and lakh of youths of our great Nation are burning their midnight lamps for securing public employment through open competitive process and therefore, any favouritism or nepotism in the matter of public employment would affect their fundamental right. Hence, any backdoor appointments in the Government service, at no circumstances, can be encouraged. Misplaced sympathy would result in unconstitutionality and therefore, it is not as if Courts can issue a direction in such matters to appoint any ineligible candidates, who are not recruited in accordance with the recruitment rules in force.

8. In the present case, the respondent was engaged by a self-help group and salary was paid to her from the funds of the said group. According to the respondent, she was selected by conducting an interview and her name was sponsored by the Employment Exchange and the Panchayat has passed a resolution. Even then, no order of appointment was issued. Mere selection process would not confer any right on the candidate. Unless the selection



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process ended with the appointment order, no right will accrue to the candidates. However, in the present case, the respondent was allowed to serve as a Sweeper pursuant to the engagement made by the said self-help group and the long service of the respondent may be taken into consideration for the purpose of allowing her to continue as a temporary employee, if she is working as Sweeper as on date.. Therefore, the said engagement cannot be construed as an appointment into the Government service and for appointment in the Government service is concerned, the respondent has to undergo the process of selection in accordance with the service rules in force.

9. Learned Special Government Pleader would submit that the case of the respondent was considered and found that she is not eligible for special time scale of pay as per G.O.(Ms) No.385, Finance (Salaries) Department, dated 01.10.2010, since she was not engaged on daily wage basis nor on consolidated pay basis by the Government authorities and in support of his contentions, he has placed before this Court a copy of the G.O.(Ms) No. 385, Finance (Salaries) Department, dated 01.10.2010 as well as G.O.(Ms) No. 139, Municipal Administration and Water Supply (T.P.1) Department, dated 03.10.2022.



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10. In any event, the respondent has not established any case for the purpose of grant of regularization or to grant special time scale of pay in accordance with the said G.O.(Ms) No.385, dated 01.10.2010.

11. Accordingly, the writ order dated 12.05.2017, passed in W.P. (MD) No.16929 of 2014, is set aside and the writ appeal stands allowed. No costs.

[S.M.S., J.]

[A.D.M.C., J.]

06.06.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

- 1.The Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai-9.
- 2.The Director of Town Panchayats,
Kuralagam,
Chennai-600 108.



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