

W.P.(MD) No.19988 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 16.07.2025

Pronounced On : 25.07.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.19988 of 2016

and

W.M.P. (MD) Nos.14389 and 14390 of 2016

M.Ravi,
No.27, Shiva Complex,
Anandha Restaurant,
Near Makkal Mandram,
Thillai Nagar, Trichy.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. By its Principal Secretary,
Home Department,
Secretariat, Fort St. George,
Chennai.

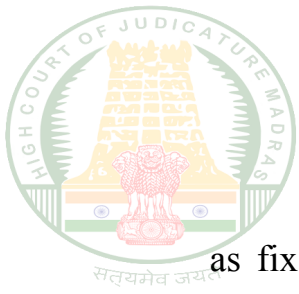
2. The Director General of Police,
Chennai – 4.

3. The Commissioner of Police,
Trichy City, Trichy.

... Respondents

PRAYER:

To issue a Writ of Certiorarified Mandamus, or any other appropriate writ or order or direction in the nature of Writ, calling for the records pertaining to the order passed by the first respondent in G.O. (Ms.)No.774, Home (Police 15) Department, dated 30.09.2013 in so far



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as fixing of retirement age as 58 is concerned and the relieving order passed by the third respondent in his proceedings in City Police Order No.741/2016, Na.Ka.No.H4/PSC-1/2016 dated 30.09.2016 and quash the same and direct the respondents to permit the petitioner to continue in service till the age of 60 years with all benefits as per Rule 56(1)(a) of the Tamil Nadu Government Fundamental Rules and pass such further or other orders as may deem fit and thus render justice.

PRAYER IN W.M.P.(MD) No.14389 of 2016:

To dispense with the production of the original impugned order passed by the first respondent in G.O.(Ms.)No.774, Home (Police 15) Department, dated 30.09.2013 for the present and thus render justice.

PRAYER IN W.M.P.(MD) No.14390 of 2016:

To stay the operation of the order passed by the first respondent in G.O.(Ms.)No.774, Home (Police 15) Department, dated 30.09.2013 in so far as fixing of retirement age as 58 is concerned and the relieving order passed by the third respondent in his proceedings in City Police Order No.741/2016, Na.Ka.No.H4/PSC-1/2016 dated 30.09.2016 so as to enable the petitioner to continue in service pending disposal of the Writ Petition and thus render justice.

APPEARANCE OF PARTIES:

For Petitioner	: Mr.M.R.Vijayakumar for Mr.V.Panneer Selvam
For Respondents	: Mr.J.Ashok Additional Government Pleader



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J U D G M E N T

Heard.

2. The petitioner challenges the validity of G.O.(Ms.)No.774, Home (Police 15) Department, dated 30.09.2013 and the consequential order of retirement issued on 30.09.2016 by the third respondent, whereby he was relieved from service on attaining the age of 58 years. The core prayer in the writ petition is for issuance of a writ of certiorarified mandamus to quash the said orders and to direct the respondents to permit the petitioner to continue in service until he reaches the age of 60 years, by invoking Rule 56(1)(a) of the Tamil Nadu Government Fundamental Rules.

3. The petitioner was initially appointed as a part-time Sweeper on 10.09.1989 in Thillai Nagar Police Station, Tiruchirapalli. After more than 19 years of service, he was regularised with effect from 01.08.2009 by proceedings dated 25.01.2010 and placed in the time scale of pay of Rs.1300 – 3000 with Grade Pay of Rs.300/-.



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4. The claim of the petitioner is premised on the argument that he falls under the category of “basic service” within the meaning of Rule 9 of the Tamil Nadu Fundamental Rules and is hence entitled to continue in service till the age of 60 years under Rule 56(1)(a). He places reliance on the decision of the learned Single Judge of this Court in ***K. Gowran v. State of Tamil Nadu, W.P. No.14977 of 2011 batch, decided on 24.01.2013***, to buttress the argument that where a government servant is regularised in a post with a pay scale lower than that of employees in the Tamil Nadu Basic Service, such employee cannot be classified as belonging to “superior service”.

5. In ***K. Gowran***, the petitioners were originally appointed as daily wage workers in the Department of Sericulture, and later regularised by G.O.(Ms.)No.25 dated 23.02.2010. While regularising their services, the Government had not framed any Special Rules prescribing their retirement age. Their pay scale was fixed at Rs.2500–5000 with Grade Pay of Rs.500/- lower than the pay for posts in the Tamil Nadu Basic Service. The Court held that when the scale of pay is below the basic pay, the employees cannot be classified as being in superior service. Therefore, in the absence of any declaration to the contrary, such employees must be



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treated as belonging to the Tamil Nadu Basic Service and permitted to retire at the age of 60 years.

6. Applying the above reasoning to the facts of the present case, it is seen that the petitioner was regularised with a pay scale of Rs.1300–3000 with Rs.300 Grade Pay, which is even lower than the scale fixed in the **K. Gowran's** case. The G.O.(Ms.)No.774 dated 30.09.2013, which fixes the retirement age of 58 for Police Station Cleaners, does not declare that such employees belong to superior service. Nor does it provide any reasoning as to why their retirement age should differ from similarly situated basic service employees in other departments.

7. The classification of service as “basic” or “superior” is governed by Fundamental Rule 9 which hinges upon the actual scale of pay. The clarification issued in G.O.(Ms.)No.3580, dated 21.09.1937 and G.O.(Ms.)No.320, dated 08.05.1930, further emphasises that classification depends on pay drawn. There is no provision in G.O.(Ms.)No.774 treating Police Station Cleaners as belonging to superior service or carving out an express exception to Rule 56(1)(a). It is a settled principle that unless the Government specifically declares a post to be in superior service, and



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assigns a pay scale above the threshold contemplated under the Fundamental Rule 9, the employee must be treated as a basic servant.

8. Moreover, there is no distinction in the nature of duties between a Sanitary Worker in the Police Department and one working in other departments who are allowed to retire at 60 years. The impugned G.O. does not disclose any rational basis for such differential treatment. The stand of the respondents that Police Station Cleaners are excluded from the general retirement age of 60 under the proviso to Rule 56(1)(a) is untenable in the absence of a positive declaration of superior status.

9. It is not the case of the respondents that the petitioner was granted any promotion or higher scale of pay after regularisation that would change his service classification. On the contrary, his scale remained among the lowest in the State Government services. The ratio in **K. Gowran** is squarely applicable to this case. The underlying principle is that once regularisation is effected without special classification, and when the pay is lower than basic service, the employee is entitled to the benefit of retirement at 60 years.



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10. It is well settled in law that policy decisions affecting retirement age must conform to principles of equality under Articles 14 and 16 of the Constitution. The denial of extended service to a basic servant in the Police Department, while granting the same to similarly placed employees in other departments, would amount to hostile discrimination unless it is based on an intelligible differentia and has a rational nexus to the object sought to be achieved. The respondents have failed to demonstrate such justification.

11. In view of the above, this Court is of the considered view that the petitioner is entitled to the relief prayed for. G.O.(Ms.)No.774, insofar as it restricts the retirement age of Police Station Cleaners to 58 years without treating them as superior service, is contrary to Fundamental Rule 56(1)(a) and ultra vires.

12. In light of the above discussion, this Court holds that the petitioner was entitled to serve until the age of 60 years, and that his premature retirement at the age of 58, based on G.O.(Ms.)No.774, Home (Police 15) Department, dated 30.09.2013, is legally unsustainable. Accordingly, G.O.(Ms.)No.774 is quashed insofar as it restricts the



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retirement age of Police Station Cleaners like the petitioner to 58 years

without treating them as superior service. The writ petition is allowed.

However, since the petitioner has attained the age of 60 years on 30.09.2018, no direction for reinstatement is issued. The petitioner shall be entitled to arrears of pay as well as consequential benefits for the period 58 to 60 and the same shall be computed and paid over to him within a period of eight weeks from the date of receipt of a copy of this order. Let this Order be communicated to the third respondent, being the Commissioner of Police, Trichy City, Trichy, to enable them to take necessary action as aforesaid within the stipulated time. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

25.07.2025

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No

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To

1. The Principal Secretary,
State of Tamil Nadu,
Home Department,
Secretariat,
Fort St. George,
Chennai.
2. The Director General of Police,
Chennai – 4.
3. The Commissioner of Police,
Trichy City,
Trichy.



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DR. A.D. MARIA CLETE, J.

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Pre-delivery Judgment made in
W.P. (MD) No.19988 of 2016

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