



**W.P.(MD) No.24303 of 2024**

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

| Date of Reserving the Order | Date of Pronouncing the Order |
|-----------------------------|-------------------------------|
| 03.11.2025                  | 12.12.2025                    |

**CORAM:**

**THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.P.(MD) No.24303 of 2024**

**and W.M.P.(MD) Nos.20571 & 20567 of 2024**

M.Arumugam

... Petitioner

-VS-

- 1.The Secretary to Government,  
Public Works (C2) Department,  
St.George Fort,  
Chennai – 600 009.
- 2.The Chief Engineer,  
PWD/WRO, Madurai Division,  
Madurai.
- 3.The Executive Engineer,  
PWD/WRO, Lower Vaigai Basin-Division,  
Paramakudi, Ramanathapuram District.
- 4.The Assistant Executive engineer,  
Paramakudi, PWD/WRO, Lower Vaigai Basin-Division,



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Thiruvadanai, Ramanathapuram District.

... Respondents

**PRAYER:** Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus or any other appropriate Writ or order or direction in the nature of the Writ, calling for the records pertaining to the impugned order passed by the first respondent in G.O.(Ms).No.138 of 2019 dated 13.09.2019 and quash the same as illegal and further that directing the first respondent to implement the order passed in W.P.(MD).no.5450 of 2018 dated 06.06.2018 and pass such further or other orders.

For Petitioner : Mr.H.Velavadhas

For Respondents : Mr.M.Siddharthan  
Additional Government Pleader

### **ORDER**

This Writ Petition has been filed for challenging the order passed by the 1<sup>st</sup> respondent in G.O.(Ms).No.138 of 2019 dated 13.09.2019 and quash the same as illegal and further to direct the first respondent to implement the order passed in W.P.(MD).no.5450 of 2018 dated 06.06.2018 and pass such further or other orders



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2) Heard Mr.H.Velavadhas, learned counsel appearing for the petitioner and Mr.M.Siddharthan, learned Additional Government Pleader appearing on behalf of the respondents.

3) The learned counsel for the petitioner would submit that the petitioner was appointed as a daily wage scavenger under the fourth respondent. Initially, he had received a monthly salary of Rs.20/- till 2009 and that the same was enhanced to Rs.145/- per month and from March 2015, the salary had been enhanced to Rs. 288/- per month. He would submit that the Government had issued a Government order in G.O.(Ms).No.385 Finance (Pay Cell) Department, dated 01.10.2010, wherein a policy decision had been taken to bring the daily wage/consolidated pay scavengers under the special time scale of pay with provision for Dearness Allowance as applicable to the Government employees from time to time.

4) He would submit that two conditions have been prescribed. The first condition was that the scavenger must have worked at least for three years and



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has held that the same should be either on daily wages / consolidated pay and that the Head of the Department should verify and forward the name of the such eligible scavenger working in their respective Departments.

5) He would submit that as the petitioner was entitled to be brought in a Special time scale of pay, the petitioner's name was also recommended by the fourth respondent in his proceedings dated 28.05.2012 which was also reiterated by a further communication dated 12.11.2013. In spite of the recommendations made in favour of the petitioner, the petitioner was not brought under the Special time scale of pay. Hence, he had approached this court in W.P.(MD).No.5450 of 2018, by an order dated 06.06.2018, this Court finding that the recommendations have been made in favour of the petitioner had directed the first respondent to consider the representation of the petitioner in the light of the recommendations made and also a decision is taken to bring the petitioner under the special time scale of pay and further to pay the petitioner even the arrears. Pursuant to the directions issued by this court, by a Government order in G.O.(Ms).No.138 Public Works Department dated 13.09.2019, the petitioner was also brought under



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the special time scale of pay till the date of his superannuation. However, by a further communication of the fourth respondent, the petitioner was treated to be an employee under the Special Time Scale of Pay scheme only from 20.09.2019 and his time scale of pay had been fixed from that date.

6) Being aggrieved against the same, the petitioner had approached this Court in W.P.(MD).No.1177 of 2019, wherein, the learned Single Judge of this Court had set aside the order with a direction to grant the special time scale of pay with effect from 01.10.2010 with a consequential and monetary benefits. However, an Intra-Court Appeal filed by the respondents, the order passed by the learned Single Judge was set aside with liberty to the petitioner to challenge the Government order which is impugned in this Writ Petition.

7) He would submit that the petitioner is entitled for the grant of monetary benefits from the date of the Government order G.O.(Ms).No.385 of 2010 alone and not from the date of the Government order where he was granted the Special time scale of pay. He would submit that the present Writ Petition even though had



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challenged the Government order, it has been done on the liberty and the direction given by the Division Bench of this court. But, however, he would submit that the fourth respondent had wrongly given effect to the Government order G.O(Ms) No.138 granting the Special time scale of pay of the petitioner. Hence, he seeks indulgence of this Court.

8) Countering his arguments, Mr.M.Siddharthan, learned Additional Government Pleader appearing on behalf of the respondents would submit that the petitioner's work was only casual in nature ie., only two hours of cleaning and sweeping and not on a full time basis against any sanctioned post . He would further submit that he had been only paid wages on daily basis and had not paid salary as claimed by the petitioner. The petitioner was appointed only as a casual labourer on daily wages and that he had been brought under the Special time scale of pay only on 20.09.2019. The petitioner is entitled to grant of monetary benefits only from the date of issue of Government order under G.O.(Ms) No.138 in his favour and not prior, viz., the date of issuance of the Government order under G.O.(Ms) No.385 in the year 2010.



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9) He would further submit that the date of assumption of charge, as the date of his appointment under the Special time scale of pay and therefore, he cannot be given any retrospective monetary benefits. He would further submit that any order passed by this Court would set a wrong precedent creating multiplicity of litigations by such similarly placed persons. He would also rely upon the judgment of the Hon'ble Apex Court in (2008) 8 SCC 648 to contend that the petitioner having belatedly approached this Court can only to given a remedy from the date on which he had succeeded and not prior to that. Hence, he prays this Court to dismiss the Writ Petition.

10) I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

11) Even though, the petitioner had challenged the Government order impugned herein, it should be seen that the said Government order had been made granting special time scale of pay pursuant to the recommendations made by the Head of the Department where he worked, in consonance with the Government



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order in G.O.(Ms).No.385 Finance (Pay Cell) Department dated 01.10.2010. The grievance of the petitioner is that he would be entitled for monetary benefits from the date of the said Government order of the year 2010 and not as per the Government order in G.O.(Ms).No.138, Public Works Department dated 30.09.2019. It is not disputed that the petitioner had been recommended for being brought under the Special time scale of pay pursuant to the Government order of the year 2010 by the recommendations of the fourth respondent as early as in the year 2012 and reiterated in the year 2013. As the recommendations have not been acted upon, the petitioner had approached this Court invoking its power under Article 226 by filing W.P.(MD).No.5450 of 2018, wherein by order dated 06.06.2018, the petitioner's claim was directed to be considered within a time frame. As the petitioner's claim has not been considered, the petitioner was constrained to approach this Court by way of a Contempt Petition. Only after which the impugned Government order had been issued in favour of the petitioner. Even assuming that the similarly placed persons like that of the petitioner were given special time scale of pay only after the date of issuance of the Government order as claimed by the respondents in the counter affidavit, it is



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to be noted that the name of the petitioner had admittedly been recommended as early as in the year 2012. Had the Government acted upon based on the recommendations of the year 2012 in compliance with the Government order of the year 2010, the petitioner would have been brought under the Special time scale of pay at least from the year 2012 or at the latest by the year 2013. The Government having failed to comply with its own order of the year 2010 for the reasons best known to it, and had only acted upon after the Contempt Petition was filed for the violation of the positive direction given by this Court in the year 2018. This conduct of the respondents cannot be held against the petitioner for him to be not entitled to the monetary benefits on a retrospective date. Even accepting the claim of the respondents that the petitioner is entitled for monetary benefits from the date of the Government order, for the failure on the part of the respondents in not taking any action on the recommendations made in the year 2012, this Court is of the view that the petitioner would be entitled for the monetary benefits at least from the date of initial recommendations namely 28.05.2012.

12) For the aforesaid reasons, this Writ Petition is disposed of with a



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direction to the respondents to calculate the monetary benefits of the petitioner in the special time scale of pay from June 2012 and also grant him increments and other consequential benefits on the same. Such calculations shall be done notionally and the actual monetary benefits that accrued to the petitioner based upon the above notional benefits shall be given to the petitioner from the date of the Government order under G.O.(Ms).No.138 Public Works Department dated 13.09.2019. Such exercise shall be made by the respondents within a period of eight (8) weeks from the date of receipt of a copy of this order. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

**12.12.2025**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
Gba



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**K.KUMARESH BABU, J.**

Gba

**PRE-DELIVERY ORDER**

**IN**

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**and**

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