



W.A.(MD)Nos.786 & 787 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2025

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

W.A.(MD)Nos.786 and 787 of 2020

W.A.(MD)No.786 of 2020:-

1.M.Balaiya (Died)

2.B.Marikannan

*(2nd Appellant / LR of the deceased sole
appellant is substituted vide order dated
24.09.2025 in C.M.P.(MD)No.15775 of 2025 in
W.A.(MD)No.786 of 2020 by CVKJ & RVJ)*

... Appellants

Vs.

1.The Commissioner,
Municipal Administration,
Ezhilagam, Chepauk,
Chennai - 600 006.

2.The Commissioner,
Kambam Municipality,
Kambam, Theni District.

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD).No.2226 of 2013 dated 05.03.2018 on the file of this Court.



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For Appellants : Mr.A.Haja Mohideen

For Respondents : Mr.A.Baskaran,
Addl. Government Pleader for R1.
Mr.K.Hemakarthiskeyan for R2

W.A.(MD)No.787 of 2020:-

1.M.Balaiya (Died)

2.B.Marikannan

... Appellants

(2nd Appellant / LR of the deceased sole appellant is substituted vide order dated 24.09.2025 in C.M.P.(MD)No.15777 of 2025 in W.A.(MD)No.787 of 2020 by CVKJ & RVJ)

Vs.

1.The Commissioner,
Municipal Administration,
Ezhilagam, Chepauk,
Chennai - 600 006.

2.The Commissioner,
Kambam Municipality,
Kambam, Theni District.

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD).No.11235 of 2014 dated 05.03.2018 on the file of this Court.

For Appellants : Mr.A.Haja Mohideen

For Respondents : Mr.A.Baskaran,
Addl. Government Pleader for R1.
Mr.K.Hemakarthiskeyan for R2



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COMMON JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The writ petitioner / M.Balaiya was appointed as Waterman by the Commissioner, Cumbum Municipality on daily wages basis vide proceedings dated 23.09.1985. He was regularized as Sanitary Worker with effect from 01.06.2006. He reached the age of superannuation and retired from service on 31.01.2014. Prior to his retirement, the appellant gave a representation seeking regularization with effect from 27.05.1999 in terms of G.O.(Ms)No.125 Municipal Administration and Water Supply Department dated 27.05.1999. His request was rejected vide order dated 14.12.2012. Challenging the same, W.P.(MD)No.2226 of 2013 was filed.

3.Since his terminal benefits were not settled, Balaiya filed W.P.(MD)No.11235 of 2014. Both the writ petitions were taken up for disposal on 05.03.2018. The learned Single Judge dismissed both the writ petitions. Aggrieved by the same, these writ appeals have been filed.



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4.W.A.(MD)No.787 of 2020 arises out of W.P.(MD)No.11235 of 2014. The learned standing counsel for the second respondent submits that all the retirement benefits payable to the writ petitioner have been settled on 10.03.2022. This submission is placed on record.

5.The question that calls for consideration is whether the writ petitioner ought to have been regularized with effect from 27.05.1999.

6.The stand of the respondents is that there was no vacancy to regularize the writ petitioner during the relevant period.

7.The learned counsel for the writ petitioner draws our attention to the proceedings dated 26.05.2006. It is seen therefrom that there was vacancy in the post of Sanitary Worker right from 01.07.1995 and therefore, regularizing the appellant in the said post with effect from 01.06.2006 was improper.

8.There is considerable force in this submission made by the learned counsel for the writ petitioner. But then, we would accept the



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said contention only if it is shown that the writ petitioner had been working as Sanitary Worker with effect from 01.07.1995.

9. Admittedly, the writ petitioner was working only as a Waterman till 01.06.2006. In fact, the writ petitioner had been insisting that he should be posted in the engineering section. Unfortunately, he was not having the requisite educational qualification. It was made clear to him that the only post against which he can be accommodated was the post of Sanitary Worker. Left with no other option, the writ petitioner gave his consent and thereafter, the Commissioner, Cumbum Municipality vide proceedings dated 26.05.2006 regularized the appellant as Sanitary Worker with effect from 01.06.2006. When the writ petitioner had not served as Sanitary Worker prior to 01.06.2006, he could not be regularized in the said post.

10. There is also a technical impediment. When the writ petitioner knew fully well that he was regularized only as Sanitary Worker and that too with effect from 01.06.2006, when proceedings dated 26.05.2006 was served on him, he did not choose to challenge the same. So long as the



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order dated 26.05.2006 is holding the field, the writ petitioner would not be justified in asking for any larger relief. The learned Single Judge rightly approached the issue and interference with the said order is not warranted and the writ appeals stand dismissed. No costs.

(G.R.S. J.) & (R.K.M. J.)
02.12.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:

The Commissioner,
Municipal Administration,
Ezhilagam, Chepauk,
Chennai - 600 006.



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