



W.A.(MD)No.359 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.01.2026

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

**W.A.(MD)No.359 of 2021
and
C.M.P.(MD)No.1237 of 2021**

The Commissioner,
Padmanabhapuram Municipality,
Padmanabhapuram,
Kanyakumari District.

... Appellant

Vs.

1.M.Arivalagan

2.The Director of Municipal Administration,
Chennai - 600 005.

3.The Regional Director of Municipal Administration,
Tirunelveli.

4.The Commissioner,
Usilampatti Municipality,
Usilampatti,
Madurai District.

5.R.Ganesh

... Respondents



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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.1197 of 2016 dated 18.04.2018 on the file of this Court.

For Appellant : Mr.P.Athimoolapandian,
Standing Counsel.

For Respondents : Mr.A.Baskaran,
Addl. Government Pleader for R2 & R3.
Mr.Karthick,
For Mr.S.Rajasekar for R1.
Mr.V.Austin,
Standing Counsel for R4.
No appearance for R5

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

The Commissioner, Padmanabhapuram Municipality, Kanyakumari District is the appellant before us. The order dated 18.04.2018 made in W.P.(MD)No.1197 of 2016 filed by M.Arivalagan / first respondent herein is under challenge in this writ appeal.

2.Thiru.M.Arivalagan was working as Public Work Overseer in Usilampatti Municipality. Vide order dated 12.01.2016, the Director of Municipal Administration, Chennai transferred the writ petitioner from



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Usilampatti Municipality to Padmanabhapuram Municipality. One R.Ganesh who was working in Padmanabhapuram Municipality was promoted from the post of Tap Inspector to Public Works Overseer and he was transferred to Usliampatti Municipality on the same date. Arivalagan challenged the transfer order by filing W.P.(MD)No.1197 of 2016. On 20.01.2016, in W.M.P.(MD)No.981 of 2016 in W.P.(MD)No.1197 of 2016, the transfer order was stayed. But in the meanwhile, Ganesh had already joined Usilampatti Municipality on 18.01.2016. Therefore, Arivalagan was not accommodated in Usilampatti Municipality. Petition to vacate the interim stay was filed in March 2016. Since Arivalagan was neither here nor there, he filed Cont.P.(MD)No.314 of 2016 in November, 2016. Unfortunately, the contempt petition as well as the vacate stay petition were not disposed of till the final disposal of the writ petition. W.P.(MD)No.1197 of 2016 was disposed of on 18.04.2018 in the following terms:-

“21.In the result, this writ petition is disposed of with the following directions:-

(i) that the impugned order is sustained and therefore, the challenge made against the said impugned order fails;



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(ii) nevertheless, since interim stay was granted against the impugned order on 20.01.2016 and admittedly, the said interim order has not been vacated, expressly, inspite of the vacate stay petition having been filed on 22.03.2016 and the said interim order against the impugned order is in force till today, no blame can be put against the petitioner for not joining duty either in the third respondent Municipality or in the fourth respondent Municipality;

(iii) therefore, the petitioner shall report to the fourth respondent Municipality forthwith, without waiting for the orders of this Court and on such reporting, the fourth respondent Municipality shall take the petitioner into service;

(iv) the period from 12.01.2016 till he joins in the fourth respondent Municipality, shall be regularized by the respondents with salary to the petitioner;

(v) if the post at the fourth respondent Municipality is already filled up by any incumbent during this period, it is open to the first respondent to give posting orders to the petitioner in any of the vacant place, forthwith;

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.”

3.A bare look at the aforesaid directions would show that while the transfer order was sustained, his services were ordered to be regularized



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and Padmanabhapuram Municipality was also directed to pay the salary arrears. Aggrieved by the same, this writ appeal came to be filed by Padmanabhapuram Municipality.

4.We had a look at the order dated 18.04.2018 passed by the learned Single Judge in W.P.(MD)No.1197 of 2016. It is seen that the Usilampatti Municipality was alone represented and Padmanabhapuram Municipality was not even heard. Without hearing the appellant / Padmanabhapuram Municipality, no adverse direction could have been passed. That is a clear violation of principles of natural justice. We, therefore, set aside the direction passed against the appellant / Municipality to pay the salary arrears to the writ petitioner.

5.It is seen that the writ petitioner did not serve either Usilampatti Municipality or Padmanabhapuram Municipality from the date of his transfer till 18.04.2018. However, we need to take note of one fact. When the writ petitioner challenged the transfer order by filing W.P.(MD)No.1197 of 2016, this Court vide order dated 20.01.2016 had granted an order of interim stay of the transfer order itself. In fact, it was



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a speaking order. The learned Single Judge who heard the writ petition formed the view that since the transfer was made to accommodate Ganesh, there has to be an order of interim stay. When the transfer order itself has been stayed, subsequent joining of Ganesh in Usilampatti Municipality should not have made any difference. The moment the interim order staying the transfer order was produced before the Commissioner, Usilampatti Municipality, appropriate steps should have been taken to accommodate Arivalagan in Usilampatti Municipality itself and Ganesh ought to have been dislodged. Such a step was not taken. Therefore, we will not fault the learned Single Judge for directing that the writ petitioner's services should be regularized with effect from 12.01.2016 till the date he joined in Padmanabhapuram Municipality. This direction stands confirmed.

6.The next question that calls for consideration is whether the writ petitioner is entitled to payment of salary. Padmanabhapuram Municipality cannot be called upon to pay salary because the writ petitioner never worked in Padmanabhapuram Municipality and Padmanabhapuram Municipality was never associated at any stage of the writ proceedings.



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7. In Usilampatti Municipality, Ganesh had already joined service.

The writ petitioner could have filed contempt petition at the earliest point of time. He had not done so. In these circumstances, directing Usilampatti Municipality to pay the salary arrears may not be in order. However, the pension contribution (employee's as well as the employer's) has to be necessarily remitted by Usilampatti Municipality for the period from 12.01.2016 to 18.04.2018, when the writ petition came to be disposed. Citing the fact that the order copy was not made ready, the writ petitioner did not join Padmanabhapuram Municipality. We cannot condone such a conduct. The writ petitioner knew fully well that the transfer order had been confirmed on 18.04.2018. On the very next date, he should have reported for duty in Padmanabhapuram Municipality. If Padmanabhapuram Municipality had declined to permit him to join duty, then we could have given some equitable relief for the writ petitioner. He had not done so. He chose to wait till 19.01.2019. Therefore, even though we direct that the writ petitioner's services for the said period from 19.04.2018 to 19.01.2019 should also be regularized, the question of remitting pension contribution either by Usilampatti Municipality or



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by Padmanabhapuram Municipality for the said period will not arise at all. The order passed by the learned Single Judge is modified to the aforesaid extent.

8.This writ appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (R.K.M. J.)
06.01.2026

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

- 1.The Director of Municipal Administration,
Chennai - 600 005.
- 2.The Regional Director of Municipal Administration,
Tirunelveli.



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