

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 12460 of 2005(G)

PETITIONERS:

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1. P.VIJAYAN, VALIYAKALATHIL HOUSE,
IRUVALLIPARA, THIRUMOOLAPURAM P.O.
THIRUVALLA, PATHANAMTHITTA DISTRICT, PRESENTLY
WORKING AS FULL TIME CONTINGENT SWEEPER,
PANDALAM GRAMA PANCHAYATH, PANDALAM.
 2. G.MALATHY, ANNARKANNAN VEEDU,
KURUMPAKKARA P.O. PATHANAPURAM VIA,
PATHANAMTHITTA DISTRICT, PRESENTLY WORKING AS
FULL TIME CONTINGENT SWEEPER, PANDALAM GRAMA
PANCHAYATH. PANDALAM.
 3. P.R.SUDHAKARAN, PULLOILIL HOUSE,
MUNDAMALA P.O. PURAMATTOM, MALLAPPALLY,
PATHANAMTHITTA DISTRICT, PRESENTLY WORKING AS FULL
TIME SANITARY WORKER, PANDALAM GRAMA PANCHAYATH,
PANDALAM.

BY ADV. SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.A.S.SABU
SRI.VIMAL KUMAR.A.V.
SRI.A.G.GIRISH KUMAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, LOCAL ADMINISTRATION
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.
 2. THE DIRECTOR OF PANCHAYATH,
GOVERNMENT OF KERALA, TRIVANDRUM.
 3. PANDALAM GRAMA PANCHAYATH,
PANDALAM, REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.SIBY MATHEW
SRI.A.A.MOHAMMED NAZIR
GOVT. PLEADER, SRI.BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON I.A. NO.5151/2006, I.A. NO.7832/2006 & I.A. NO.3044/2007

CLOSED

31.7.07

SD/-
K.BALAKRISHNAN NAIR, JUDGE

APPENDIX

PETITIONER'S EXHIBITS:

- EXT. P1: COPY OF ORDER ISSUED BY THE PANDALAM MUNICIPALITY DATED 9-9-1991.
- EXT. P2: COPY OF ORDER ISSUED BY THE PANDALAM MUNICIPALITY DATED 18-9-1991.
- EXT. P3: COPY OF ORDER ISSUED BY THE PANDALAM MUNICIPALITY DATED 19-9-1991.
- EXT. P4: COPY OF ORDER ISSUED BY THE FIRST RESPONDENT DATED 23.1.1993.
- EXT. P5: COPY OF THE REPRESENTATION SUBMITTED BEFORE THE 2ND RESPONDENT DATED 8-7-1993.
- EXT. P6: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS BEFORE THE 3RD RESPONDENT DATED 11.11.1996.
- EXT. P7: COPY OF THE JUDGMENT PASSED BY THIS HONOUROABLE COURT IN O.P.NO.10181 OF 1993 DATED 15.1.2002.
- EXT. P8: COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT DATED 23.3.2002.
- EXT. P9: COPY OF THE REPORT SUBMITTED BY THE 3RD RESPONDENT DATED TO THE 2ND RESPONDENT DATED 14.5.2002.
- EXT. P10: COPY OF THE RESOLUTION PASSED BY THE 3RD RESPONDENT DATED 13.3.2002.
- EXT. P11: COPY OF THE JUDGMENT PASSED BY THIS HONOURABLE COURT IN O.P. NO.88081 OF 1994 DATED 11.4.1996.
- EXT. P12: COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT DATED 23.3.1998.

/TRUE COPY/

P.A. TO JUDGE

JP

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.12460 of 2005-G

Dated this the 31st day of July, 2007.

J U D G M E N T

The petitioners 1 and 2 are full time contingent sweepers and the third petitioner is a sanitary worker, working under the 3rd respondent. The said panchayat was converted as a municipality on 1-4-90. Later, it was converted as a panchayat again with effect from 1-4-1993. The petitioners were engaged while the 3rd respondent was a municipality. After the municipality was re-converted into panchayat, they were terminated from service in 1994 and thereafter, with effect from 28-4-1994, they were being engaged on daily wage basis. The petitioners claim, regularization in service. The panchayat has passed Ext.P10 resolution supporting their claim. It is pointed out that there were 3 regular vacancies in which the petitioners could be accommodated. The panchayat has also waiting for sanctioning of 3 more additional vacancies. The said resolution has been forwarded along with Ext.P9 covering letter to the Director of Panchayat. In the above background, the petitioners seek the following reliefs.

i) issue a writ of mandamus or any other appropriate writ, direction or order, directing the respondents to regularize the services of the petitioners in the Pandalam Panchayath in the posts/employment now occupied by them.

ii). Declare that the petitioners are entitled to be regularized in their services in the Pandalam Panchayath in the posts now occupied by them.

2. The learned counsel for the petitioners also point out that the Director has forwarded Ext.P9 letter with his comments to the Government for appropriate action.

3. I heard the learned Government Pleader for respondents 1 and 2 and the

learned counsel for the 3rd respondent. Part time sweepers and scavengers attached to the panchayats are also entitled for regularization, provided they are working since 2003 by virtue of the order of the Government dated 25-11-2005. In this case, admittedly the petitioners were working since 1991, so they are entitled to be considered for regularization, in the light of the afore-mentioned Government order concerning regularization of casual sweepers. In this case, there is no necessity for creation of post also as the panchayat has pointed out the existence of 3 vacancies to accommodate them.

3. In view of the above position, the Government is directed to take a decision on the claim of the petitioners for regularization which is supported by the panchayat and also stated to be supported by the Director. While forwarding a copy of this judgment to the first respondent, the petitioner may also file separate detailed representations setting out their claim. The first respondent shall take a decision on the claim of the petitioners for regularization, within three months from the date of receipt of the representation. If for any reason there is any objection in regularizing any of the petitioners, the concerned petitioner shall be put on notice and he shall be given an opportunity of being heard before final decision is taken in his case. It is pointed out that the second petitioner has already been superannuated. But, the same shall not affect the claim of the said petitioner for regularization in service so that he could draw terminal benefits. Needless to say while the claim of the petitioners for regularization is considered, their claim for retrospective effect shall also be considered. While passing orders as directed above, the claim of the petitioners on the ground in favour of their regularisation relying on Ext.P12 shall also be adverted to.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.