

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-09-2015

CORAM

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Review Application No.190 of 2015
in
W.P.No.16487 of 2013

- 1.The Assistant Director of Town
Panchayat,
Coimbatore Division,
Coimbatore Collectorate.
 - 2.The Executive officer,
Karumathampatti Town Panchayat,
Karumathampatti,
Coimbatore. .. Petitioners
- Vs.
- R.Ganesan .. Respondent

This Review Application is filed under Order XLVII,
Rule 1 read with Section 114 of CPC to review the order
made in WP No.16487 of 2013 dated 12.8.2013.

For Petitioners : Mr.V.Jayaprakash Narayanan,
Special Government Pleader.

For Respondent : Mr.V.Bharathidasan

ORDER

The writ petitioner was appointed as a Driver on NMR basis in the Town Panchayat on 1.10.1996. His services were regularised on 30.4.1998 with effect from 4.8.1997 and he was granted scale of pay of Rs.975-1,600.

2. The grievance of the writ petitioner was that he was not given revision of pay with effect from 1.1.2006. The other employees were given revision of pay pursuant to VI Pay Commission Recommendation. In the circumstances, the writ petitioner filed W.P.No.16487 of 2013 to grant revision of pay including the annual increments as per VI Pay Commission from 1.1.2006 and also grant him Selection Grade Pay with effect from 2007.

3. The Town Panchayat put up a defence that the writ petitioner did not possess the requisite educational qualification of VIII Standard and hence the writ petitioner was not granted revision of pay.

4. I rejected the contention raised by the Town Panchayat since the lack of educational qualification cannot be insisted after the writ petitioner was regularised in service. It is a different matter, if the

writ petitioner was not regularised on the ground of lack of educational qualification. Since he was regularised in service with effect from 4.8.1997, it is implied that the Town Panchayat has relaxed the qualification.

5. Having regularised the writ petitioner in service and also granted time scale of pay, the Town Panchayat is not correct in refusing to grant revision of pay as the same took place with effect from 1.1.2006.

6. Hence, I allowed the writ petition filed by the writ petitioner in W.P.No.16487 of 2013 dated 12.8.2013.

7. Now this review application is filed by the respondents in the writ petition stating that there is no power of relaxation to the Town Panchayat. Hence the Town Panchayat seeks to review my order dated 12.8.2013 in W.P.No.16487 of 2013.

8. The learned Special Government Pleader has submitted that the Town Panchayat had no power to relax the educational qualification and hence the very regularisation granted with effect from 4.8.1997 is illegal.

9. I am not impressed with the submissions made by the learned Special Government Pleader.

10. The order granting relaxation is intact. Further more, the relaxation granted by an order dated 30.4.1998 cannot be interdicted nearly after 18 years.

11. It is not the case of the Town Panchayat that the writ petitioner does not possess the Driving Licence. But different view could be taken if the writ petitioner does not possess driving licence since the possession of a Driving Licence is a mandatory one as prescribed in the statute. But in the case of educational qualification, the same can be relaxed.

12. Further more, the writ petitioner never suppressed about the educational qualification. Having granted regularisation from 4.8.1997 and also granted scale of pay, the Town Panchayat should also pay the revision from 1.1.2006. Hence, I do not find any merit in the review application and the same fails. Accordingly, it is dismissed.

13. At this juncture, the learned counsel for the respondent/writ petitioner has submitted that the writ petitioner would be satisfied if notional fixation of revision is given from 1.1.2006 and the actual benefit is given from 1.12.2010, the date on which he acquired VIII Standard qualification. In fact, it is the concession made by the learned counsel for the writ petitioner, as I am not inclined to interfere with the order dated 12.8.2013 in W.P.No.16487 of 2013. The aforesaid statement of the learned counsel for the writ petitioner is recorded.

14. Hence, while dismissing the review application, a direction is issued to the review petitioners to appropriately revise the pay of the writ petitioner with effect from 1.1.2006 on notional basis and to give him the actual benefits with arrears from 1.12.2010 and the Town Panchayat is also directed to grant selection grade pay with effect from 2007.

15. The aforesaid exercise shall be undertaken by the review petitioners, within a period of four weeks. At this juncture, the learned Special Government Pleader has stated that the Town Panchayat paid Rs.1 lakh. If the amount was paid, the same could be adjusted towards the

arrears to be paid with effect from 1.12.2010.

16. Post for compliance of the order on 29.9.2015.

Index : Yes.

02-09-2015

Internet : Yes.

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Office to Note: Issue order copy by 4.9.2015.

To

1.The Assistant Director of Town
Panchayat,
Coimbatore Division,
Coimbatore Collectorate.

2.The Executive officer,
Karumathampatti Town Panchayat,
Karumathampatti, Coimbatore.

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