



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2015

CORAM :

THE HONOURABLE MR. JUSTICE K. RAVICHANDRABAABU

Writ Petition (MD) No.10330 of 2013

WEB COPY

1. Raja

2. K. Natarajan

... Petitioners

Vs.

The Commissioner of
Pudukottai Municipality,
Pudukottai,
Pudukottai District.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records from the respondent in Na.Ka.No. 11120/2012/C1 dated 18/03/2013 and quash the same and consequently direct the respondent to give the petitioners employment as per G.O.Ms.No.21 Municipal Administration and Water Supply Department dated 23/02/2006.

For Petitioners : Mr.N.Balakrishnan

For Respondent : Mr.P.Mahendran

ORDER

The petitioners are aggrieved against the order of the respondent dated 18.03.2013 and consequently seeking for a direction to the respondent to give them employment as per G.O.Ms.No.21, Municipal Administration and Water Supply Department, dated 23.02.2006.

2. According to the petitioners, they were employed as Supervisor under the respondent in engineering section from 01.01.1996 to 01.07.1997 as NMR. After the said period, the petitioners were not allowed to continue in the work. Hence, the petitioners approached this Court by filing W.P.Nos.7513 and 7514 of 2010 seeking for a direction to the respondents to consider their case as per G.O.Ms.No.21, dated 22.03.2006. By an order dated 14.06.2010, this Court directed the authorities to consider their representations. Thereafter, the petitioners filed another W.P.No.4256 of 2011 wherein also a direction was issued on 13.03.2012 to consider the petitioners claim as per G.O.Ms.No.21, dated 23.02.2006. Thereafter, the present impugned order came to be passed.

3. According to the respondent, the petitioners are not in service from 1999 onwards and therefore, the question of regularisation of their service does not arise. It is further



stated that the petitioners have not challenged their respective ousting.

4. In reply, learned counsel for the petitioners submitted that similarly situated persons challenged the order of ousting before the Tribunal and ultimately the order passed by the Tribunal came up for consideration before this Court in W.P.No.14676 of 2002 whereby by an order dated 19.07.2007, the Hon'ble Division Bench directed the authorities therein to consider the claim of the petitioners therein under G.O.Ms.No.21, dated 23.02.2006 and pass appropriate orders. Therefore, he contended that similar orders can be passed in this case also.

5. Per contra, learned counsel appearing for the respondent submitted that the petitioners have not approached the Tribunal immediately after their ousting and they have allowed the ousting to become final and conclusive and therefore, the question of regularization of their service or appointment does not arise.

6. Heard both sides and perused the entire materials available on record.

7. Perusal of the impugned order would show that the petitioners' names are not finding a place in the proposal submitted by the Commissioner of Municipal Administration for regularizing the services of those persons as per G.O.Ms.No.21, dated 23.02.2006. Even according to the petitioners, they were in service only from 01.01.1996 to 01.07.1997. If that is their case, the admitted position is that they are not in service from 01.07.1997 onwards. Therefore, if at all, the petitioners are aggrieved against ousting they should have approached the appropriate forum challenging the ousting then and there. In this case, no such attempt has been made by the petitioners at any point of time and on the other hand, they seek to rely on an order passed in respect of another person namely, V.Venkatraman made in W.P.No.14676 of 2002 dated 19.07.2007. I am of the view that the petitioners cannot take shelter under the said order especially under the circumstances that they are not in service from 01.07.1997 and not challenged the ousting so far. Therefore, considering their claim for regularization does not arise as per G.O.Ms.No.21, dated 23.02.2006 as the said G.O is not for making appointment and on the other hand, it is for regularizing the services of the persons who are already in employment. Accordingly, I find no merits in the writ petition. Consequently, the writ petition is dismissed. No costs.

Sd/-

Assistant Registrar(C.O.,)



To

The Commissioner of Pudukottai Municipality,
Pudukottai, Pudukottai District.

+1cc to Mr.P.Mahendran, Advocate, in SR. No.10076/15.

+1cc to Mr.N.Balakrishnan, Advocate, in SR. No.10138/15.

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