

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2016

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR

AND

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

Writ Appeal No.383 of 2010

and

M.P.No.2 of 2010

P.Venkatesan

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Appellant

vs.

1.The Secretary to Government of Tamil Nadu
Municipal Administration and
Water Supply Department
Fort St. George, Chennai

2.The Commissioner of Town Panchayats
Kuralagam, Chennai - 108

3.The Assistant Director of Town Panchayat
Salem Zone, Salem Respondents

Writ Appeal filed under clause 15 of the Letters Patent against the order of the writ court dated 28.04.2009 made in W.P.No.3035 of 2009 filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the proceedings in G.O.Ms.No.183, Municipal Administration and Water supply(Py.1) Department, dated 19.09.2008 of the 1st respondent namely, the Secretary to Government Municipal Administration and water supply Department, fort St.George Chennai and quash the same insofar as it prescribes a cut off date Viz., 29/11/2001 for regularization and consequently direct the respondents to regularise the serves of the petitioner as work Inspector pursuant to the sanction of posts in G.O.Ms.No.93, Municipal Administration and Water supply (Py.1) dated 28.05.1998.

For Appellants : Mr.S.Mahesh

For Respondents : Tm.Pappiah,
Special Government Pleader

JUDGMENT
(delivered by S.MANIKUMAR, J)

Vide common order made in W.P.Nos.26695 to 26704 of 2008, etc. batch of writ petitions dated 28.04.2009, the writ court, declined to issue any direction to the official respondents therein, to regularize Technical Assistants appointed subsequent to the cut off date 29.11.2001. In respect of those appointed earlier, directions have been issued to the respondents therein to absorb them as against the post of Work Inspectors in the existing vacancies after verifying the fact as to whether they were initially appointed prior to the cut off date as Technical Assistant. Appellant was appointed subsequent to the cut off date. His writ petition in W.P.No.3035 of 2009 has been dismissed. Hence he is on appeal.

2. Earlier, when the writ appeal came up for hearing, Mr.S.Mahesh, learned counsel for the appellant, submitted that, being aggrieved by the common order, Government have filed Writ Appeal Nos.1507 to 1516 of 2010 and after hearing the learned counsel for the parties, directions have been issued to the appellants therein to consider the case of Technical Assistants.

3. Mr.S.Mahesh, learned counsel for the appellant, further submitted that, the appellant would be satisfied, if similar directions are issued in the instant appeal also. Mr.Tm.Pappiah, learned Special Government Pleader, representing the respondents, has no objection for the said course.

4. Perusal of the common judgment made in W.A.Nos.1507 to 1516 of 2010 dated 15.03.2011 shows that the Hon'ble First Bench, has taken note of denial of relief to those appointed after the cut off date. The Hon'ble First Bench has also taken note of the fact that some of the writ petitioners, who filed appeals denying the relief of absorption, have withdrawn the writ appeals and thereafter made representations to the Director of Town Panchayats, Chennai, and he had recommended their case.

5. Order of the Hon'ble First Bench reads as hereunder:

"7. Aggrieved, the Government has come forward with these appeals. Though the learned Government Pleader raised many contentions with regard to the claim of the respondents for appointment as Work Inspectors, we do not want to delve into the same for, it appears that in respect of certain candidates/incumbents, who had joined in the post

after 2001, the learned single Judge declined to grant relief and their writ petitions were dismissed. Those writ petitioners preferred Writ Appeals against the said judgment. Subsequently, those appellants withdrew the writ appeals and submitted representation to the second respondent to consider their cases for absorption as Work Inspectors. The second respondent appears to have favourably considered those representations and by proceedings Na.Ka.No.22943/2009 A2, dated 15.1.2011 recommended them to be considered for absorption. Copy of such proceedings was produced before us by the learned Government Pleader. Learned Government Pleader submitted that the case of the present respondents shall also be considered along with others for their absorption. Learned counsel appearing for the respondents very fairly submitted that the respondents have no objection if the impugned judgment is modified to that extent. Learned counsel for the respondents submitted that the respective Assistant Director of Panchayats, under whom the respondents are working, have certified to the fact that all the respondents have been engaged in service much prior to 2001, and the first respondent may take note of the same, while considering the case of the respondents.

8. Hence, we dispose of these appeals, and modify the impugned judgment by directing the appellants to consider the case of the respondents for their absorption along with the candidates, whose names have been recommended by the second respondent by proceedings dated 15.1.2001, and take a final decision within three months from the date of receipt of a copy of this order. Till final decision is taken the respondents, if they have been engaged in services, shall be continued to be engaged, and it shall abide by the final decision to be taken by the respondents, as indicated above. No costs. Consequently, miscellaneous petitions are closed."

6. Reverting to the case on hand, it is the submission of Mr.S.Mahesh, learned counsel for the appellant that pending writ appeal, no representation has been made to the Commissioner of Town Panchayats, Chennai, respondent No.2. He further submitted that appellant would make a representation. Appellant is stated to be working.

7. Placing on record the submission of the learned counsel for the appellant, there is no need to advert to the grounds of challenge in the writ appeal. Suffice to permit the appellant to make a representation to the Commissioner of Town Panchayats,

Chennai, respondent No.2, within a period of two weeks from today, who shall consider the same, on the same lines as done in respect of other Work Inspectors, vide proceedings in Na.Ka.No.22943/2009 A2 dated 15.01.2011 and accordingly send suitable proposals, within a period of four weeks from the date of receipt of representation.

8. The first respondent, namely the Secretary to the Government of Tamil Nadu, Municipal Administration and Water Supply Department, is directed to pass appropriate orders within four weeks from the date of receipt of proposals, in terms of the decision made in W.A.Nos.1507 to 1516 of 2010 dated 15.03.2011. Appellant is at liberty to enclose a copy of the order made in W.A.Nos.1507 to 1516 of 2010 dated 15.03.2011, along with his representation.

With the above directions, the writ appeal is disposed of. However, there shall be no order as to cost. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

asr

To

1.The Secretary to Government of Tamil Nadu
Municipal Administration and
Water Supply Department
Fort St. George, Chennai

2.The Commissioner of Town Panchayats
Kuralagam, Chennai - 108

3.The Assistant Director of Town Panchayat
Salem Zone, Salem

+1 cc to M/s.V.Vijay Shankar Advocate sr 72532
+1 cc to the Government Pleader sr 72629

W.A. No.383 of 2010

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