

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

Rev.Application (Writ) No.12 of 2017
in W.P.No.33647 of 2016
and WMP.No.5707 of 2017

S.Naveenkumar

..

Petitioner

vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and Water Supply
Department, Fort St.George,
Chennai-9.
- 2.The Director of Town Panchayats,
Kuralagam, Chennai-108.
- 3.The District Collector,
Erode,
Erode District.
- 4.The Additional Director of Town Panchayats,
Erode,
Erode District.
- 5.The Executive Officer,
Petham Palayam Town Panchayat,
Petham Palayam (Post),
Kanji Kovil (Via)
Perundurai Taluk,
Erode, Erode District-638 116.

6.The Appointment Committee,
Rep. by its Chairman,
Petham Palayam Town Panchayat,
Petham Palayam (Post),
Kanji Kovil (Via)
Perundurai Taluk,
Erode, Erode District-638 116.

.. Respondents

Prayer: Review Application filed under Order 47 Rule 1 r/w. Section 114 of Civil Procedure Code seeking to review the order made in W.P.No.33647 of 2016 dated 15.02.2017.

For Applicant : Mr.N.Kolandaivelu

For Respondents : Mr.S.T.S.Moorthy,
Additional Government Pleader
assisted by
Mr.A.Kumar, Special Government Pleader

ORDER

Basic facts leading to the filing of this Review Application as to the selection and appointment of the petitioner as Electrician Grade-II have been narrated in detail and in extenso in the impugned order and therefore, it need not be restated once again.

2. Mr.N.Kolandaivelu, learned counsel appearing for the review applicant has drawn the attention of this Court to the resolution of the six respondent dated 14.09.2016 and would submit that the contents of the said

resolution would disclose that the review applicant is having educational qualification as well as 10 years experience in a private concern and as such, it cannot be said that he did not enclose the experience certificate and as a consequence, his order of appointment came to be cancelled. The learned counsel appearing for the review applicant has also drawn the attention of this Court to para 17 of the counter affidavit of the fifth respondent filed in the writ petition and would submit that cancellation of appointment also sought to be justified for the reason that the fifth respondent did not call for names of available retrenched employees with the required qualifications for appointment in the local bodies as contemplated under G.O.Ms.No.623, Industrial (MIA-I) Department dated 22.09.1998 and G.O.Ms.No.24, Information Technology (MIE) Department dated 16.07.1999 and couple of candidates, who had attended the interview, was not selected and whose application was returned as belated, had sent their objections dated 14.09.2016 and legal notice dated 12.09.2016, which was received by the office of the fifth respondent on 14.09.2016.

3. The learned counsel appearing for the review applicant has also invited the attention of this Court to the counter affidavit of the fifth respondent filed in this petition and would contend that contrary to the stand

taken in the writ petition counter affidavit, diametrically opposite stand has been taken in the counter affidavit filed in the review application by contending that the employees, who are already working in the Panchayat and who were subsequently retrenched from their employment, were given an opportunity to participate in the selection process and the impugned order of cancellation of the petitioner's appointment was passed on the same day when he joined duty. The learned counsel appearing for the review applicant has also drawn the attention of this Court to the additional typed set of documents and would submit that two Government Orders in G.O.Ms.No.524, Industries (MIA.I) Department dated 21.08.1998 and G.O.Ms.No.623, Industries (MIA.I) Department dated 22.09.1998 pertains to retrenched employees of the Tamil Nadu Steels Limited (TNSL), Arakkonam and in the light of the passage of time, nobody in the services of the Government entity can be accommodated and therefore, prays for interference.

4. *Per contra*, Mr.S.T.S.Moorthy, learned Additional Advocate General appearing for the respondents would contend that in the light of the complaints received and grievances expressed by non selected candidates, whose applications have been submitted belated and retrenched employees, a

fair and proper decision has been taken by the respondents 5 and 6 to go for fresh notification and recruitment and the review applicant cannot be prejudiced for the reason that this Court, while dismissing the writ petition, had given liberty to the review applicant/writ petitioner to participate in the selection process and the review applicant, under the guise of arguing the review applicant, cannot re-agitate the matter afresh and prays for dismissal of this review application.

5. This Court has considered the rival submissions and also perused the entire materials placed before it.

6. As rightly contended by the learned counsel appearing for the review applicant, the fifth respondent has taken a contra stand in para 17 of the counter affidavit filed in the writ petition as well as in para 6 of the counter affidavit filed in this review petition. It is not in serious dispute that before calling for applications for filling up the post, proper advertisement was issued and the review applicant also produced the experience certificate and it was also recorded in the resolution of the sixth respondent and therefore, it cannot be said that the review applicant did not enclose the experience certificate.

7. It is to be pointed out at this juncture that reliance has been placed upon two Government Orders viz., G.O.Ms.No.524 and 624 of Industries (MIA-I) Department, which came to be passed in the year 1998 and it pertains to absorption of employees of Tamil Nadu Steels Limited in other public sector undertakings including State Transport Corporations and not in respect of retrenched employees of local bodies. It is further to be noted at this juncture that in the light of passage of time from the issuance of the above said two Government Orders, no employees in the services of the Tamil Nadu Steels Limited can be accommodated.

8. In the considered opinion of the Court, the above said infirmities pointed out have to be upheld and as a consequence, the Review Application is to be allowed.

9. In the result, this Review Application is allowed, setting aside the order dated 15.02.2017 passed in W.P.No.33647 of 2016 and consequently, W.P.No.33647 of 2016 is allowed. The respondents 5 and 6 are directed to reinstate the petitioner forthwith as Electrician Grade II and confer him with all consequential benefits except backwages, as the review applicant did not

work on account of cancellation of the order of appointment. No costs.

Consequently, connected miscellaneous petition is closed.

09.06.2017

Index : Yes / No

Internet : Yes / No

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To

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- 2.The Director of Town Panchayats,
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- 6.The Chairman,
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M.SATHYANARAYANAN, J.

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