

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No. 26509 of 2012

and

M.P. No. 1 of 2012

A.R.V. Muthukumarasamy .. Petitioner

vs.

1. The Commissioner of Municipal
Administration & Water Supply
Chepauk, Chennai - 600 005.
2. The Commissioner
Panruti Municipality
Panruti
Cuddalore District. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in connection with his notice dated 10.12.2010 in Na.Ka. No. 4148/2010/C1 and quash the same and consequently direct the respondent to appoint the petitioner in any of the eligible post with regular scale of pay on the basis of proceeding of 2nd respondent in Na.Ka. No. 2448/98/C dated 28.04.1999 as per

- i. G.O.Ms.No. 125 MA & WS Dept. dated 27.05.1999
 - ii. G.O.Ms.No. 21 MA & WS Dept. dated 23.02.2006
- at the office of the 2nd respondent with all benefits

For Petitioner : Mrs. T. Aananthi

For Respondents : Mr. R. Govindasamy
Addl. Govt. Pleader for R1

Mr.P.V. Selvakumar
for R2 Municipality

ORDER

This writ petition has been filed seeking to quash the proceedings of the 2nd respondent in connection with his notice dated 10.12.2010 in Na.Ka. No. 4148/2010/C1 and consequently direct the respondent to appoint him in any of the eligible post, with regular scale of pay, on the basis of the proceeding of 2nd respondent in Na.Ka. No. 2448/98/C dated 28.04.1999 as per G.O.Ms.No. 125 MA & WS Dept. dated 27.05.1999 and G.O.Ms.No. 21 MA & WS Dept. dated 23.02.2006, at the office of the 2nd respondent with all benefits.

2. According to the learned counsel for the petitioner, the petitioner was appointed on consolidated pay as an NMR on 01.07.1996 in the 2nd respondent Municipality and on 31.03.1997 he was ousted from service. Later, the 1st respondent called for details of the candidates, similarly placed like the petitioner, and the 2nd respondent vide his proceedings dated 29.04.1999 forwarded the name of the petitioner. At that time, there was a ban for appointment and so the petitioner was not appointed. According to the petitioner, he was working from 01.07.1996 to 31.03.1997 and so on the basis of G.O.Ms.No. 125 MA & WS Department dated 27.05.1999 and G.O.Ms.No. 21 MA & WS Dept. dated 23.02.2006, he should have been appointed in the regular time scale of pay. But, without considering the same, the claim of the petitioner was rejected. Therefore, this writ petition has been filed, seeking the aforesaid prayer.

3. According to Mr. P.V. Selvakumar, learned Standing Counsel for Municipalities, the 2nd respondent had passed the impugned order, taking into consideration the fact that the petitioner had worked in the respondent Municipality as an NMR only for a few days, that too, from 01.01.1997 to 31.03.1997. Therefore, the aforesaid Government orders will not apply to the case of the petitioner. The aforesaid Government orders are applicable only to those persons who were working as NMRs prior to 01.10.1996. Therefore, the prayer of the petitioner has to be rejected.

4. Heard learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

5. The respondent Municipality has considered the claim of the petitioner and had rejected the same, for the reason that the petitioner was working as an NMR only from 01.01.1997 to 31.03.1997, only for 46 days. Hence, the aforesaid Government orders will not be applicable to the case of the petitioner. As

per the said Government orders, the persons who were working as NMRs prior to 01.10.1996, are eligible to be appointed in the regular time scale of pay, in the vacant posts. Learned counsel for the petitioner brought to the notice of this Court, the letter Na.Ka. No. 2448/98/C1 dated 28.04.1999 issued by the 2nd respondent, forwarding the representation of the petitioner to the 1st respondent, wherein it is stated that the petitioner had worked in the 2nd respondent Municipality from 01.07.1996 to 31.03.1997. Hence, it is found that the petitioner was working prior to 01.10.1996. But, the said material has not been considered by the 2nd respondent. However, the petitioner has not placed any other material before this Court, to prove that the petitioner was working as an NMR prior to 01.10.1996.

6. Considering the above submissions of the learned counsel for both the parties, I am inclined to quash the impugned proceedings of the 2nd respondent dated 10.12.2010 in Na.Ka. No. 4148/2010/C1 and permit the petitioner to make a fresh representation, along with other relevant documents available if any, within two weeks from the date of receipt of a copy of this order. On receipt of such representation, the 1st respondent is directed to consider the proposal of the 2nd respondent Municipality dated 28.04.1999 and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks, thereafter.

7. The Writ Petition is allowed, with the above direction. Consequently, the connected M.P is closed. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

avr
To

1. The Commissioner of Municipal
Administration & Water Supply
Chepauk, Chennai - 600 005.

2. The Commissioner
Panruti Municipality
Panruti, Cuddalore District.

+1cc to Ms.T.Aananthi, Advocate sr.19117

W.P.No.26509 of 2012 and
M.P. No. 1 of 2012

scd(co)
ss(27/4/2017)