

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12.12.2018

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.3354 of 2014

and

M.P.Nos.1 & 2 of 2014

1. B.Ravichandran

2. M.Selvaraj

... Petitioners

Vs.

1.The Secretary to Government of Tamil Nadu
Municipal Administration and
Water Supply Department,
Fort St. George, Chennai - 9

2. The Director of Town Panchayat
Kuralagam Buildings, Chennai -108.

3. The Assistant Director of Town Panchayat,
Trichy Region, Trichy District.

4. The Executive Officer,
Mannachalanallur Town Panchayat,
Trichy District.

5. The Executive Officer,
Musiri Selection Grade Town Panchayat,
Musiri, Trichy District.

.... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the record relating to the proceedings of the 5th respondent dated 14.12.2009 issued in Na.Ka.No.429/2009 and the proceedings of the 2nd respondent dated 30.08.2011 issued in memorandum No.10108/2011/A3 and quash the same in so far as the prospective regular time scale alone and consequently to direct the respondents 2 and 3 to bring the petitioners under consolidated pay with effect from the date (26.10.1998) of issuance of G.O.M.S.No.198 MAWSS (TP-1) 26.10.1998 and under regular time scale from the dated 26.10.2001) of compleation three years in the category of consolidated pay in available sanctioned posts of Tap Inspector and Electrician Grade II to the 4th respondent's Town Panchayat by the 2nd respondent, dated 10.07.2000 in his proceedings No. Na Ka No.13068/2000/A3 in terms of G.O.M.S.No.198 MAWSS (TP-1) 26.10.1998.

For Petitioner : Mr. P.I.Thirumoorthy

For Respondents : Mr.R.Govindaswamy,
Spl.G.P.
for R1
:Mr.S.Kamalashkannan.
Government Advocate,
for R2

O R D E R

This writ petition has been filed challenging the order passed by the fifth respondent dated 14.12.2009 and subsequent order passed by the second respondent dated 30.08.2011.

2. The grievance of the petitioners is that both the petitioners were engaged as NMRs by the fourth respondent Town Panchayat and they were working as Water Supply Assistants from the year 1993 and 1994 respectively. Subsequently, in the year 1998, the Government issued an order in G.O.Ms.No.198, Municipal Administration and Water Supply Department, dated, 26.10.1998, directing the Town Panchayats to appoint the eligible NMR Water Supply employees, who were engaged on or before 31.12.1996, on a consolidated pay, initially for a period of three years in various categories and bring them under regular time scale by getting proposals from the concerned Town Panchayats. The said Government order has also extended to the NMRs, who had lacking technical or educational qualifications.

3. For the post of Tap Inspector, the qualification was fixed as 10th standard with ITI and for the post of Helper, 8th standard was fixed as qualification. In the year 1999, the fourth respondent, Town Panchayat, passed a resolution creating those posts as per the norms prescribed in the said Government Order. Subsequently new posts have also been created. Since the petitioners did not possess the requisite qualification, a proposal was sent to the second respondent seeking relaxation of qualification. But, the above proposal was not disposed of by the second respondent and hence, the petitioner was not appointed as per the above G.O. In the meantime, the Government issued another order in G.O.Ms. No.242 MAWSS (TP-1) Department dated 10.12.2009, directing the Town Panchayats to bring the eligible NMRs, who had completed 10 years service as on 31.10.2008, under the regular time scale. Pursuant to the said Government Order, the second respondent directed the fifth respondent to absorb both the petitioners in the sanctioned post of Over Head Tank Watchman, for which the qualification of 8th standard is sufficient. Subsequently, the petitioners were also appointed in the post of Over Head Watchman.

4. Now, the grievance of the petitioners is that, instead of appointing the petitioners as per G.O.Ms.No.242, the petitioners ought to be appointed under the G.O.Ms.No.198 dated 26.10.1998. Without considering the proposal for relaxation, now they were appointed pursuant to. G.O.Ms.No.242 MAWSS (TP-1) Department dated 10.12.2009. Hence, the present writ petition has been filed seeking to set aside the above order of appointment and to appoint the petitioners as per G.O.Ms.No.198 MAWSS (TP-1) 26.10.1998.

5. The fifth respondent filed a counter affidavit stating that as per G.O.Ms.No.198 MAWSS (TP-1) dated 26.10.1998, the petitioners were not qualified. Hence, the proposal was sent to the second respondent to relax the qualification, but that proposal was rejected by the second respondent on 10.01.2003 itself. In the said circumstances, the petitioners could not be appointed pursuant to the G.O.Ms.No.198 MAWSS (TP-1) dated 26.10.1998. However, the petitioners were appointed based on their qualifications as Over Head Tank Watchman on Time Scale of Pay from 30.12.2009 in Musiri Town Panchayat, as per G.O.Ms.No.242 MAWS (TP-1) Department, dated 10.12.2009. Hence, now the petitioners cannot claim appointment as per the G.O.Ms.No.198 MAWSS (TP-1) dated 26.10.1998.

6. I have considered the rival submissions and perused the materials available on record.

7. The grievance of the petitioners is that even though they do not have necessary qualification under G.O.Ms.No.198 MAWSS (TP-1) 26.10.1998, a proposal for relaxation was sent by the fourth respondent to the second respondent. Without passing any order on the relaxation, now the petitioners were appointed under G.O.Ms.No.242.

6. The fifth respondent has filed a counter affidavit stating that even though the fourth respondent has sent a proposal to the second respondent seeking for relaxation of technical qualification, it was rejected by the second respondent as early as on 10.01.2013 itself. In the said circumstances, since the petitioners are not qualified as per G.O.Ms.198, the fourth respondent was not in a position to appoint them.

7. It is an admitted fact that the petitioners do not possess the required qualification as per the norms prescribed in G.O.Ms.No.198 Municipal Administration and Water Supply Department dated 26.10.1998. The proposal for relaxation of technical qualification has also been rejected by the second respondent in the year 2003 itself. Apart from that, the

petitioners also cannot claim the relaxation of technical qualification as a matter of right. Now, the petitioners were appointed in the regular time scale on 14.12.2009, as per the G.O.Ms.No.242 MAWSS (TP-1) Department 10.12.2009 as they possessed necessary qualification prescribed in the said G.O, and now they are also working with the fifth respondent. In the said circumstances, I find no merits in the writ petition.

7. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

mrp

To

- 1.The Secretary to Government of Tamil Nadu
Municipal Administration and
Water Supply Department,
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2. The Director of Town Panchayat
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5. The Executive Officer,
Musiri Selection Grade Town Panchayat,
Musiri, Trichy District.

+1cc to Mr.P.I.Thirumoorthy, Advocate, S.R.No. 85910
+1cc to the Government Pleader, S.R.No. 86737

W.P.No.3354 of 2014

NRL (CO)
GN(12/02/2019)