



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.08.2018

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
AND
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) Nos.932 and 1074 of 2018
and C.M.P. (MD) Nos.6097 and 7665 of 2018

The Commissioner,
Theni - Allinagaram Municipality,
Theni,
Theni District.

.. Appellant in W.A.(MD) No.932
of 2018 and 2nd Respondent in
W.A.(MD) No.1074 of 2018/3rd
Respondent

1.The State of Tamil Nadu,
Rep. by its Principal Secretary
Municipal Administration &
Water Supply (ME 1) Department,
Secretariat, Chennai - 9.

2.The Director of Municipal Administration,
O/o. The Director of Municipal Administration,
Chepauk, Chennai - 5.

..Appellants in W.A.(MD) No.1074
of 2018 and Respondents 2 &
3 in W.A.(MD) No.932 of 2018
/Respondents 1 & 2

Vs.

G.M.Ramachandran

.. 1st Respondent in both
appeals/Petitioner

Writ Appeals filed under Clause 15 of Letter Patent against
the order passed by this Court in W.P.(MD)No.2532 of 2016 dated
14.03.2018.

Prayer in WP(MD). No.2532/ 2016 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a Writ of
Certiorari calling for the records relating to the impugned order
passed by the 1st respondent in his proceedings in G.O.Ms.No.9,
Municipal Administration and Water Supply (Napa.1) Department
dt.27.01.2016 and the consequential impugned order passed by the 3rd
respondent in his proceedings in e.f.vz;.2963/2015/rp1 dated
01.02.2016 and quash the same as illegal.



For Appellant in W.A. (MD)
No.932 of 2018 and 2nd
Respondent in W.A. (MD)
No.1074 of 2018 : Mr.K.Hema Karthikeyan
For Appellants in W.A. (MD)
No.1074 of 2018 and
Respondents 2 & 3 in W.A.
(MD) No.932 of 2018 : Mr.A.K.Baskarapandian
Special Government Pleader

For 1st Respondent in both : Mr.M.Ajmal Khan,
appeals Senior Counsel
for M/s.Ajmal Associates

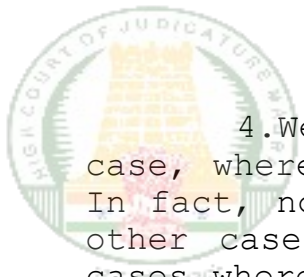
COMMON JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J)

Since these Writ Appeals arise out of the same order, they are taken up together for disposal by this common judgment.

2.The 1st respondent herein is an ex-service person. Admittedly, 1st respondent's wife was appointed as Typist on an earlier occasion. Thereafter, a decision was made to change the post to one of Junior Assistant. Resultantly, the Typist Post was vacant. In the place, first respondent was accommodated. This was done by relaxing the Rule by the Government. Thereafter, a fresh proceeding was initiated stating that the order was passed wrongly. It was put into challenge. This was set aside by the Administrative Tribunal. Thereafter, a show cause notice was issued in the year 1997. First respondent has given reply immediately. However, he has made a challenge once again before the Tribunal. The challenge was rejected in the year 2008. Till such time there was an interim order in favour of the first respondent. The present impugned order was passed rejecting the explanation given by the first respondent on 27.01.2016, which is one month prior to superannuation of the first respondent. For passing the aforesaid order the Government/first appellant in W.A.(MD) No.1074 of 2018 has taken 8 years. This was again put into challenge before this Court. The learned Single Judge was pleased to allow the Writ Petition primarily on two grounds. First is with respect to the regularization given in favour of similarly placed persons. Second issue is unexplained delay of 8 years even after disposal of the earlier writ petition, Challenging the same, the present Appeal has been filed.

3.Learned Special Government Pleader appearing for the appellants in W.A.(MD) No.1074 of 2018 submits that the delay per se cannot be a ground to give the relief. When the entry into service is not correct, all consequential action would get vanish. Reliance has been made to the judgment of the Hon'ble Apex Court in Devendra Kumar v. State of Uttaranchal [(2013) 9 SCC 363].



4. We do not find any merit in these appeals. It is not a case, where the first respondent is proved to have committed fraud. In fact, not only the case of the first respondent but also in some other cases relaxation have been given. We were dealing with the cases where Rules have been relaxed. Such an exercise may be bad in the eye of law but for the same the beneficiary cannot be put at fault. Consequently, there is no explanation for not passing final order after 8 years. The decision relied upon by the learned Special Government Pleader will not have application on the case on hand. A factual finding has been given in the aforesaid case for the fraud committed. We have to consider the fact of the present case in which the first respondent has already put in more than 21 years of service. He has also attained the age of superannuation on 29.02.2016. Hence, we do not find any reason to interfere with the order of the learned Single Judge.

5. In such view of the matter, these Writ Appeals are dismissed. Consequently, connected Miscellaneous Petitions are also dismissed. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Principal Secretary to Government of Tamil Nadu,
Municipal Administration &
Water Supply (ME 1) Department,
Secretariat, Chennai - 9.

2. The Director of Municipal Administration,
O/o. The Director of Municipal Administration,
Chepauk, Chennai - 5.

+1cc to M/S.K.Hema Karthikeyan, Advocate SR.No. 79748

+1cc to M/S.Ajmal Associates, Advocate SR.No. 79767

+1cc to Special Government Pleader, SR.No. 79952

W.A. (MD) Nos.932 and 1074 of 2018
and C.M.P. (MD) Nos.6097 and 7665 of 2018
21.08.2018

sj

JM/SKN/SAR 2/30.08.2018/3P/6C