



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 14.03.2018

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.2532 of 2016

and

WMP(MD)No.2234 of 2016

G.M.Ramachandran

... Petitioner

Vs.

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

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

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

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the first respondent in his proceedings in G.O.Ms.No.9 Municipal Administration and Water Supply (eg.1)Department dated 27.01.2016 and the consequential impugned order passed by the third respondent in his proceedings in e.f.vz;.2963/2015/rp1 dated 01.02.2016 and quash the same as illegal.

For Petitioner	: Mr.Ajmal Khan, Senior Counsel for M/s.Ajmal Associates
For Respondent	: Mrs.S.Srimathy, Special Government Pleader for R1 & R2 Mr.K.Hemakarthikeyan for R3

ORDER

Heard the learned counsel on either side.

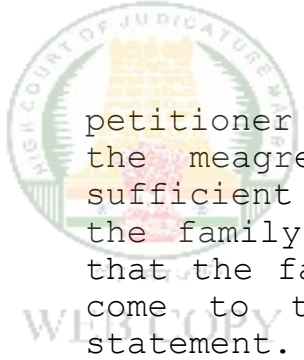


2.The petitioner is a Ex-Army personnel. A vacancy arose in the post of Typist in Periyakulam Municipality. As per the relevant service rules to fill up the said vacancy, a candidate must be sponsored by the employment exchange. The Government issued G.O.Ms.No.66, Municipal Administration & Water Supply Department dated 21.06.1995 relaxing the aforesaid rule in the case of the petitioner herein. This enabled the local municipality to appoint the petitioner as a Typist with effect from 23.06.1995. Thereafter, there was an en masse termination of a number of similar by such appointed individuals.

3.The terminations were challenged before the Administrative Tribunal. The Tribunal set aside the orders of termination and directed reinstatement of such individuals. The petitioner was one such individual. The Tribunal quashed the orders of termination only on the ground that the termination was arbitrarily issued and that there was no enquiry preceding the same. Thereafter, the petitioner was issued with show cause notice dated 29.08.1997. The petitioner offered his explanation on 08.10.1997. He thereafter filed O.A. before the Tribunal. The same was transferred to the High Court and re-numbered as WP.No.32604 of 2006. By order dated 05.11.2008, the said writ petition was dismissed and the petitioner was directed to go before the authority. After 8 long years, the impugned order came to be passed. The same is assailed in this writ petition.

4.The learned standing counsel appearing for the municipality as well as the learned Special Government Pleader appearing for the respondents 1 and 2 would submit that the petitioner procured his appointment as a Typist by deliberate suppression of material facts. It was submitted that the petitioner's wife was already employed as a Typist in the very same municipality. She obtained posting under the Ex-Servicemen quota. Subsequently, the said post was converted to one of Junior Assistant. In the resulting vacancy, the petitioner sneaked in by manoeuvring the Government to issue relaxation in his favour. The counsel for the respondents strongly contended that indulgence ought not to be shown on the ground that he was an Ex-Servicemen. They wanted this Court to sustain the orders impugned in this writ petition.

5.The only question that arises for consideration before this Court is whether the petitioner had obtained an order of relaxation from the Government by any suppression of material fact. This Court went through representation submitted by the petitioner on 09.06.1995 as well as G.O.Ms.No.66, Municipal Administration & Water Supply Department dated 21.06.1995. All that the petitioner submitted in his representation was that he is without any employment after his retirement from the Army. This statement is factually correct. There is a further claim that he is wallowing in poverty. Merely because the petitioner's wife happened to be a typist in a municipality that need not be necessarily mean that the petitioner was not in poverty. It is quite possible that the



petitioner had contracted debts and he was in financial distress and the meagre salary obtained by the petitioner's wife was not sufficient for the family. Therefore, merely because a member of the family is employed in Government service that need not mean that the family is well to do. Therefore, one need not necessarily come to the conclusion that the petitioner had made a false statement.

6.As rightly pointed out by the learned Senior Counsel for the petitioner, almost all the other individuals who were appointed along with the petitioner during the relevant time have since been regularized. Therefore, taking a different stand in the case of the petitioner alone is definitely not fair. More than anything else, the appointment was made way back in the year 1995. The petitioner had served the municipality for a full 21 years. The learned Senior Counsel for the petitioner would submit that the petitioner's track record in the municipality is free of blame or blemish. The show cause notice was issued in the year 1997. After the aforesaid writ petition was disposed in the year 2008, the Government had taken more than 8 years to pass final orders. There is no justification for such a long delay. The petitioner has been thrown out just a month before he reached the age of superannuation.

7.Taking into account all these circumstances, this Court is inclined to quash the orders impugned in this writ petition. The petitioner had reached the age of superannuation. The petitioner shall be deemed to have retired from service on 29.02.2016. The retiral benefits payable to the petitioner shall be disbursed within a period of twelve weeks from the date of receipt of a copy of this order. The learned senior counsel on instructions would submit that he shall not make any claim regarding interest for the belated disbursement of the retiral benefits.

8.This writ petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1.The Principal Secretary, Municipal Administration &
Water Supply (ME I) Department, Secretariat, Chennai - 9.

2.The Director of Municipal Administration,
<https://hcservices.ecourts.gov.in/hcservices/>
O/o. the Director of Municipal Administration,
Chepauk, Chennai - 5.



+1cc to Special Government Pleader, SR.No. 55745
+1cc to M/S.Ajmal Associates, Advocate SR.No. 55442
+1cc to M/S.K.Hemakarthiskeyan, Advocate SR.No. 55452

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JM/CVC/SAR 4/11.04.2018/4P/6C