



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **18.09.2019**

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .No.938 of 2019

and

C.M.P. (MD) .No.8474 of 2019

- 1.K.Vijayakumar
- 2.N.Mohamed Jamaludeen
- 3.K.Balamaruthu
- 4.C.Vaithiyanathan
- 5.M.Alagar

... Appellants/Petitioners

Vs.

- 1.The Secretary to Government,
State of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai-600 009.
- 2.The Commissioner of Municipal Administration,
Chepauk,
Chennai-600 005.
- 3.The Commissioner,
Tiruchirappalli City Municipal Corporation,
Cantonment,
Tiruchirappalli.

..Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.(MD).No.10426 of 2015 dated 18.06.2019.

Prayer in WP(MD). 10426/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records of the 1st respondent herein in his proceedings in letter No.32318/MC.5/2013-7, dated17.11.2014 and quash the same and consequently direct the 1st respondent herein to relax the qualification of Typewriting for the petitioners in the post of Junior Assistant Cum Typist in the 3rd respondent corporation and to pass such further or other orders.



For R1 : Mr.A.K.Baskara Pandian
Special Government Pleader
For R2 and R3 : Mr.N.S.Karthikeyan

JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.K.Hemakarthikeyan, learned counsel appearing for the appellants, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the first respondent and Mr.N.S.Karthikeyan, learned counsel appearing for the second and the third respondents.

2.This appeal is directed against the order passed in W.P. (MD).No.10426 of 2015 dated 18.06.2019. In the said writ petition, the appellants challenging the Government Letter dated 17.09.2014 by which, the Government has rejected the request made by the Commissioner of the Corporation of Triuchirappalli, to relax the qualification prescribed for the appellants to continue to function as Junior Assistant-cum-Typist. The prescribed qualification is that the appellants must have passed Higher Secondary School Examination and must have passed English and Tamil Typewriting of Government Technical Examination any one in Senior Grade and the other in Junior Grade. When the appellants were granted promotion there was a specific condition that they should acquire technical qualification within two years, unfortunately, the appellants did not acquire the qualification. Consequently, it appears that one of the appellants also reverted. The legal issue as to whether the Court can compel the respondents to grant relaxation of educational qualification, technical qualification is no longer *Res integra* and it has been settled in several decisions that the power of relaxation has to be exercised by the Government in accordance with the legal principles and the Court cannot compel the Government to relax the qualification, unless a strong case of discrimination is made out.

3.The learned counsel for the appellants submitted that the first appellant retired from service and the other appellant less than three years of service and in respect of other categories post in the very same Corporation, the Government has relaxed the technical qualification, in G.O.Ms.No.290, dated 19.07.2017. The said Government Order pertains to the post of Conservancy Supervisor and for the reasons set out therein, the Government took up a decision to grant relaxation and other Government Order pertains to Sanitary Supervisor.

4.In our considered view, the appellants were granted promotion subject to condition and the said condition was accepted



by the appellants and they joined in the promoted post. Therefore, at this distance of time, the appellants cannot plead that the technical qualification required to be acquired by them has to be dispensed with. The reliance placed on the decision taken by the Government in respect of other Municipal Corporation can hardly advance the case of the appellants. Therefore, we are of the view that the learned Single Judge is right in rejecting the relief as sought for by the appellants. The appellants does not made out any grounds to interfere with the order passed by the learned Single Bench.

5.With the above observation, this Writ Appeal stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

Ns

To

1.The Secretary to Government,
State of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Municipal Administration,
Chepauk,
Chennai-600 005.

3.The Commissioner,
Tiruchirappalli City Municipal Corporation,
Cantonment,
Tiruchirappalli.

+1 CC to M/s.K.HEMAKATHIKEYAN, Advocate (SR-88048[F] dated 20/09/2019)

+1 CC to M/s.SPL GP (SR-87957[F] dated 19/09/2019)

ORDER MADE IN

W.A. (MD) .No.938 of 2019

and

C.M.P. (MD) .No.8474 of 2019

18.09.2019