



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **17.02.2020**
CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.24023 of 2019
and
W.M.P. (MD)No.20616 of 2019

R.Natarajan

... Petitioner

/vs./

1.The State of Tamil Nadu,
Represented by the Secretary to Government,
Municipal Administration & Water Supply Department,
Fort St.George,
Chennai - 600 009.

2.The Commissioner,
Trichirappalli Municipal Corporation,
Trichirappalli.

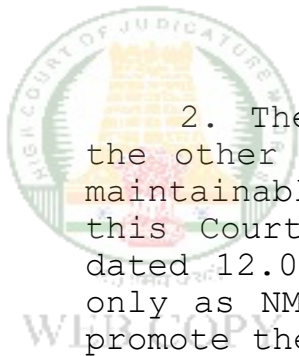
... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to regularize the service of the petitioner by way of upgradation of his service as Technical Assistant as per G.O.Ms.No.125, Municipal Administration and Water Supply (Na Pa.3) Department dated 27.05.1999 and consequently consider the name of the petitioner for the promotion to the post of Junior Engineer in the 2nd respondent Corporation in the light of the order passed in W.P.No.5060 of 2014 dated 31.01.2018 on the file of this Court on par with the petitioners therein.

For Petitioner	: Mr.K.Vidya
For R-1	: Mr.V.Anand Government Advocate
For R-2	: Mr.N.S.Karthikeyan

ORDER

The prayer sought for in the present writ petition is for a direction to the respondents to regularize the petitioner's service as provided in G.O.Ms.No.125, Municipal Administration and Water Supply (Na Pa.3) Department dated 27.05.1999. The learned counsel for the petitioner would place reliance on a decision of this Court passed in W.P. (MD)No.5060 of 2014 dated 31.01.2018, in this regard.



2. The learned Standing Counsel for the second respondent on the other hand would submit that the present writ petition is not maintainable, since the petitioner herein had earlier approached this Court in W.P.(MD)No.11025 of 2016 and this Court, by order dated 12.01.2018, had observed that the petitioners were appointed only as NMRs (Technical Assistants) and therefore, their prayer to promote them to the post of Junior Engineers cannot be sustained.

3. It is the grievance of the petitioner that after the order was passed in W.P.(MD)No.11025 of 2016 dated 12.01.2018, this Court, by the subsequent order dated 31.01.2018 in W.P.(MD)No.5060 of 2014 had regularised the service of the certain employees, who were similarly placed as that of the petitioner herein. The learned standing counsel for the second respondent would submit that the petitioner in W.P.(MD)No.5060 of 2014 is not a similarly placed person as that of the petitioner herein and therefore, the decision in the said writ petition cannot be made applicable to the petitioner herein. I do not intend to go into these aspects, since the plea of regularization depends on various factual factors and this Court may not be justified in exercising its powers under Article 226 of the Constitution of India for the purpose of determining these facts.

4. The earlier writ petitions filed by the petitioner herein in W.P.(MD)No.11025 of 2016 and 1457 of 2014 were for a direction to the respondents to promote the petitioner as Junior Engineer. In view of such a prayer sought for, this Court had observed that the prayer itself is unsustainable, since the petitioner was only NMR. However, when the claims of similarly placed persons were entertained by this Court in a subsequent order dated 31.01.2018 passed in W.P.(MD)No.5060 of 2014, the petitioner herein had made a representation on 16.01.2018 to the respondents seeking for regularization and in view of the non-consideration of the representation, the present writ petition has been filed.

5. I am of the view that the order passed in earlier writ petition in W.P.(MD)No.5060 of 2014 may not amount to *resjudicata* and therefore, if the respondents are directed to consider the petitioner's representation on its own merits, the ends of justice could be secured. The issue requires to be decided by the second respondent on the merits of the case and the factual aspects involving therein.

6. In the light of the above observations, the petitioner is granted liberty to make a fresh representation, ventilating his grievances and on receipt of the same, the second respondent herein shall consider afresh and pass a speaking order, on its own merits and in accordance with law, atleast within a period of six (6) weeks from the receipt of such representation.



7. This Writ Petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

The Secretary to Government,
Municipal Administration & Water Supply Department,
Fort St.George,
Chennai - 600 009.

+1 CC to SPL.GP (SR-6783[F] dated 18/02/2020)

+1 CC to M/s.K.VIDYA, Advocate (SR-6985[F] dated 19/02/2020)

Order made in
W.P.(MD)No.24023 of 2019
Dated:17.02.2020

MK (04.03.2020) 3P 4C