



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**Reserved on : 03.12.2021**

**Pronounced on : 23.12.2021**

**WEB COPY**

**CORAM:**

**THE HONOURABLE MRS.JUSTICE S. SRIMATHY**

**W.P(MD) No.5737 of 2015 and  
WMP(MD) .No.8130 of 2017**

K. Murugan :Petitioner

..VS..

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

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

3.The Commissioner,  
Tirunelveli Municipal Corporation,  
Tirunelveli.

: Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus calling for the records connected with the impugned order passed by the 3<sup>rd</sup> respondent in Na.Ka.No.6475/97/C2, dated 28.08.2007 and quash the same and consequently direct the third respondent to regularise the service of the petitioner from the date of absorption in Melapalayam Municipality with effect from 01.06.1992 in the category of Fitter, since the petitioner is fully qualified to hold the post of Fitter as per the Municipal Service Rules.

(prayer amended as per order dated 23.12.2021)

|                |   |                                                   |
|----------------|---|---------------------------------------------------|
| For Petitioner | : | Mr. S. Govindan                                   |
| For R1 & R2    | : | Mr. D. Sasikumar<br>Additional Government Pleader |
| For R3         | : | Mr. Aayiram K. Selvakumar                         |



**O R D E R**

This Writ Petition has been filed to quash the impugned order passed by the 3<sup>rd</sup> respondent in Na.Ka.No.6475/97/C2, dated 28.08.2007 and consequently direct the third respondent to regularize the service of the petitioner from the date of absorption in Melapalayam Municipality with effect from 01.06.1992 in the category of Fitter, since the petitioner is fully qualified to hold the post of Fitter as per the Municipal Service Rules.

2. The petitioner has completed S.S.L.C. in the year 1979, subsequently acquired ITI certificate and undergone Fitter Trade Course for the period from 05.07.1979 to 05.06.1981, for a period of 2 years and have passed the Trade Test of Fitter and Registered his name in the District Employment Exchange, Tirunelveli on 04.08.1981. Thereafter, employment exchange sponsored the petitioner's name on 18.08.1988 for the post of Fitter in Tamil Nadu Water Supply and Drainage Board and appointed as NMR and the petitioner joined the service on 05.10.1988. He was assigned the work of Fitter in Water Supply Improvement Scheme with the consolidated pay of Rs.2,000/-. The Government has taken a policy decision to hand over the maintenance of existing Water Supply scheme from the TWAD Board to respective panchayats and Municipalities and accordingly, all the staffs working under the TWAD Board were transferred and absorbed in the respective Panchayats and Municipalities. The petitioner was handed over to Melapalayam Municipality along with staff working under the control of TWAD Board and was absorbed on 01.06.1992 along with 10 similarly placed persons from TWAD Board with continuity of service with effect from 01.06.1992. Since some of them were regularized, the petitioner was not regularized, aggrieved over the petitioner has filed the present Writ Petition.

3. The 3<sup>rd</sup> respondent has filed a counter stating that the petitioner has appeared only 10<sup>th</sup> standard and has not completed and therefore the petitioner has not acquired the minimum qualification of SSLC. The petitioner has obtained ITI Certificate from unrecognized institution. Therefore the petitioner is not eligible for the post of Fitter, since the petitioner no basic qualifications as well as fundamental qualifications mentioned in the said Rule, the respondents did not consider the petitioner for regularization. However, the petitioner was considered as un-skilled worker and was continuing his work in the Melapalayam Municipality. Thereafter, when the Melapalayam Municipality was merged with Thirunelveli Corporation, the petitioner was continued as NMR in the Thirunelveli Corporation. Therefore, the petitioner is not entitled for regularization. The said counter was adopted by the first respondent Secretary, Municipal Administration and Water Supply Department, Secretariat, Chennai.

4. Heard the learned counsel appearing on either side and perused the materials available on record.



5. The third respondent circulated the Rules pertaining to the post of Fitter, wherein it is stated that the qualification prescribed is 10<sup>th</sup> standard pass and ITI certificate from recognized institution. The petitioner is not denying that said prescribed qualification, but the petitioner submitted that the similarly placed other persons were also not possessing such qualifications, the Government after considering the entire issue has given relaxation wherever necessary and the petitioner relied on the G.O.Ms.No.209 Municipal Administration and Water Supply (Ma. Na.5) Department dated 17.09.1999. On perusing the said G.O it is seen that the municipality recommended all the persons and the petitioner name is listed in S.No.11. In the said G.O it has been stated that from 01.05.1992, 11 persons listed in the G.O. were transferred to the Melapalayam Municipality and they are working as Municipal Servants. These persons were appointed through Employment Exchange and they were appointed in the Municipality, then the Thirunelveli Corporation has submitted a recommendation stating that 11 employees are not having full qualifications, but has recommended only S.Nos.4 to 9 persons to give exemptions from education and after considering the recommendation, the Government has granted exemptions from education and age only to S.Nos.4 to 9 and has left S.Nos.1 to 3, 10 and 11. The petitioner's name is listed as S.No.11 and it is unknown why the Corporation has recommended S. Nos. 4 to 9 and why the Corporation has left out S.Nos.1 to 3, 10 and 11. There is no explanation in the counter why other 5 persons were left out. There is no reasonable reason to leave the other persons. However the respondents have granted the said relief of regularization to the petitioner from 28.08.2007, after a long delay, but the claim of the petitioner is that the respondents ought to be regularized under G.O.Ms.No.209, dated 17.09.1999 and the regularization ought to be from 17.09.1999.

6. On perusal of the G.O. Ms. No. 209, this Court is of the opinion that the petitioner ought to be regularized under G.O.Ms.No.209 dated 17.09.1999 and regularization ought to be from 17.09.1999 onwards. When the respondents have granted regularization by relaxing the age and educational qualification to other similarly placed persons, denying regularization by relaxing the educational qualification from 17.09.1999 is bias and totally non-application of mind. When G.O.Ms.No.209 grants relaxation of age and education, the petitioner also ought to have been granted relaxation from education. Moreover, the petitioner has rendered service as Fitter for more than 30 years and the practical experience of the petitioner ought to be taken into account and such relaxation ought to have been granted.

7. Therefore, this Court directing the 3<sup>rd</sup> respondent to submit a fresh proposal to the Government in the light of the G.O.Mos.No.209, dated 17.09.1999 within a period of two weeks from



proposal, the first respondent / Government shall grant relaxation to the petitioner from 17.09.1999 in the light of G.O.Ms.No.209 Municipal Administration and Water Supply (Ma. Na.5) Department dated 17.09.1999 and grant all consequential benefits to the petitioner, within a period of four weeks.

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8. In the result, the Writ Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

trp

To

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

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

3.The Commissioner,  
Tirunelveli Municipal Corporation,  
Tirunelveli.

+1 CC to M/s.SPL GP ( SR-40487[F] dated 27/12/2021 )

Order made in  
W.P(MD) No.5737 of 2015 and  
WMP(MD) .No.8130 of 2017  
23.12.2021

KK(CO)  
GC(19.01.2022) 4P 5C