



WEB COPY



W.A.No.554 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2022

CORAM :

The Hon'ble Mr. Justice PARESH UPADHYAY
and
The Hon'ble Mr. Justice D.BHARATHA CHAKRAVARTHY

W.A.No.554 of 2022
and C.M.P.No.4058 of 2022

1.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai – 600 003.

2.The Chief Accounts Officer,
Corporation of Chennai,
Ripon Buildings,
Chennai – 600 003.

.. Appellants

vs

1.The State of Tamil Nadu
Rep. By its Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai – 600 009.

2.T.S.Dhanaraj

.. Respondents

Appeal filed under Clause 15 of Letters Patent against the order
dated 27.09.2021 made in W.P.No.23123 of 2008.



W.A.No.554 of 2022

For Appellants : Mr.S.Silambanan
Additional Advocate General
assisted by
Ms.P.T.Rama Devi

For Respondents : Mr.M.Rajendran
Additional Government Pleader
for R1
Mr.R.Prem Narayan for R2

JUDGMENT

(Delivered by D.BHARATHA CHAKRAVARTHY.,J)

1. This appeal is filed by the Commissioner, Corporation of Chennai, the second respondent in the writ petition, aggrieved by the order of learned Single Judge dated 27.09.2021. By the Order, the learned Single Judge allowed the writ petition filed by the second respondent / writ petitioner.

2. Heard Mr.S.Silambanan, learned Additional Advocate General appearing on behalf of the appellant / Corporation, Mr.M.Rajendran, learned Additional Government Pleader for the first respondent and Mr.R.Prem Narayan, learned counsel for the second respondent / writ petitioner.



W.A.No.554 of 2022

3. The brief facts leading to the filing of the writ petition are that, the writ petitioner was appointed on daily rated basis in the year 1969 and thereafter was regularly appointed to the post of Junior Assistant in the year 1977 and was conferred with the regular time scale of pay from 02.03.1979.

3.1. When the matter was taken up for regularization of the services, the first respondent Government, vide G.O.Ms.No.283, Municipal Administration and Water Supply Department dated 17.03.1988 admonished the action of the Corporation in appointing these persons without prior approval of the Government, but however, acceded to the request of regularizing their services of totally 108 persons from the date of issuance of the order. Accordingly, the writ petitioner was regularized in service from the date of issue of the order i.e. from 17.03.1988.

3.2. The writ petitioner and the other employees submitted representations to the appellant / Corporation aggrieved by the said action of regularizing them from the date of G.O., while they have been regularly working in the said post of Junior Assistant from the year 1979. The said request was considered by the Council of the first



W.A.No.554 of 2022

respondent Corporation by a resolution No. 505/1998 dated 26.06.1998 the appellant Corporation decided to grant the relief prayed for by the writ petitioners and others by regularizing them from their date of original appointment i.e. from the year 1979. Accordingly, the order was passed on 27.07.1998 to regularize the writ petitioner and other 107 Junior Assistants from the date of their original appointment. Accordingly, the writ petitioner worked in the said post and retired on attaining the age of superannuation on 31.08.2006.

3.3. Thereafter, on 07.10.2008, an order was passed by the appellant / Corporation stating that after the grant of the benefit from their date of original appointment, the matter was taken up with the Government for ratification but however by letter dated 08.12.2005, the Government expressed its opinion and clarified that regularization from the date of publication of G.O. would be appropriate and therefore the resolution was sent back for reconsideration. It is in this context, the petitioner's date of regularisation was sought to be reckoned from the dated of the GO, instead of the original date, that is, stated in the impugned order that the request for the writ petitioner for regularization from the original date i.e. 02.03.1979.



W.A.No.554 of 2022

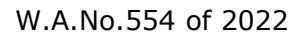
Questioning the same the writ petition came to be filed.

WEB COPY

4. The learned Single Judge after considering the said aspects and after considering the fact that the date of taking up the issue for confirmation of the employee cannot be the relevant date while the initial appointment has been done in accordance with the Rules allowed the writ petition. As against the said order, while the Government did not file any appeal, the appellant / Corporation alone has chosen to file the present appeal.

5. Learned Additional Advocate General for the appellant / Corporation has submitted that when the Government has not chosen to ratify the regularization which is granted from the initial date of appointment, the appellant / Corporation has no other option than to revise the date with effect from the date of the Government Order and when the employees had no vested right of regularization, the learned Single Judge ought not to have interfered with the decision of the Corporation.

6. Per contra, learned counsel for the second respondent / writ petitioner would submit that, in this case, the writ petitioner



Two years after the retirement, without any opportunity or hearing whatsoever the benefit which was already conferred on him was withdrawn, that too, with erroneous reasons as if the petitioner was seeking the benefit only then. He would therefore submit that the learned Single Judge has rightly allowed the writ petition.

8. In this case, it can be seen that by an order dated 27.07.1998, the benefit of regularization from the initial date of service is actually conferred by the appellant / Corporation. With that benefit, the petitioner actually worked in the post and superannuated on 31.08.2006. Thereafter, there was no occasion for the appellant / Corporation to withdraw the date of actual regularization of service, especially when the employee has retired from service. For the said reason, we find that, the reasoning by the learned Single Judge in quashing the said order and allowing the writ petition filed by the writ petitioner to be in order and does not require interference.



W.A.No.554 of 2022

9. It is also pertinent to state here that even though the Government, which was opposing regularization from the inception of service, has not chosen to prefer any appeal against the order of learned Single Judge.

10. For the above reasons, this writ appeal is without any merits and is accordingly dismissed. No Costs. Connected miscellaneous petition is closed.

(P.U., J) (D.B.C., J)
12.10.2022

Index:No
ssm/19

To

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



WEB COPY



W.A.No.554 of 2022

PARESH UPADHYAY, J.
and
D.BHARATHA CHAKRAVARTHY, J.

ssm

W.A.No.554 of 2022

12.10.2022