



W.P.(MD)No.4564 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.4564 of 2020

and

W.M.P.(MD)Nos.3908, 3909 and 3911 of 2020

1. S.Muthurasu,
Sanitary Worker,
Genguvarpatti Town Panchayat,
Theni District.

2. P.Murugan,
Sanitary Worker,
Kuchanur Town Panchayat,
Uthamapalayam Taluk,
Theni District.

... Petitioners

Vs.

1. The Director of Town Panchayats,
Office of the Director of Town Panchayats,
7th & 8th Floors, Town Administrative Office,
Chennai – 600 028.

2. The Assistant Director,
Town Panchayats,
Theni Region,
Theni District.



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3. The Executive Officer,
Kuchanur Town Panchayat,
Uthamapalayam Taluk,
Theni.

4. The Executive Officer,
Genguvarpatti Town Panchayat,
Theni District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the second respondent in Na.Ka.No.1176/2019/Peru2 dated 20.01.2020 and consequently, direct the respondents herein to promote the petitioners herein as Bill Collector / Junior Assistant fixing their seniority in the seniority list to be prepared by the respondents as per G.O.(Ms)No.150 dated 19.08.1998 and as per proceedings of the second respondent in Na.Ka.No.0471/2017/Peru2 dated 03.07.2017.

For Petitioners : Mr.K.Appadurai

For Respondents : Mr.S.P.Maharajan
Special Govt. Pleader for R1 & R2
Mr.M.Rajarajan for R3 & R4

ORDER

This Writ Petition has been filed to call for the records of the impugned order of the second respondent in Na.Ka.No.1176/2019/Peru2



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dated 20.01.2020 and consequently, direct the respondents herein to promote the petitioners herein as Bill Collector / Junior Assistant fixing their seniority in the seniority list to be prepared by the respondents as per G.O.(Ms)No.150 dated 19.08.1998 and as per proceedings of the second respondent in Na.Ka.No.0471/2017/Peru2, dated 03.07.2017.

2. The case of the petitioners is that the petitioners were appointed as Sanitary Workers on 11.03.1998 and 01.04.1998 respectively. Their initial appointment was on consolidated pay and thereafter, they were brought on time scale of pay on completion of three years of their initial appointment as per the conditions. The said regularization was made vide order dated 20.06.2012, in W.P.(MD)Nos.3080 and 3081 of 2012 respectively and implemented in G.O.(D)No.34, Municipal Administration and Water Supply (TP.1) Department, dated 23.01.2013. The first petitioner has completed 21 years of continuous service in the fourth respondent Town Panchayat and the second petitioner has completed 21 years of continuous service in the third respondent Town Panchayat as Sanitary Workers. As per G.O.(Ms)No.150, Municipal Administration and Water Supply (Peru-2)



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Department, dated 19.08.1998, the employees appointed in the Town Panchayats under the said Government Order, nearly 20% of them shall be transferred to 20% vacancies caused in the regular vacancies in the State service cadre by absorption on seniority. Upon consideration of the request of the first respondent, the Government issued a Government Order in G.O. (Ms)No.76, Municipal Administration and Water Supply (Peru.1) Department, dated 31.05.2019 for absorption of workers. The petitioners have already requested the first respondent to absorb them into the 20% transfer into the State Service Cadre under the Tamil Nadu Ministerial Service Rules as a special consideration for promotion as Bill Collector / Junior Assistant. However, the second respondent, by an impugned order dated 20.01.2020, rejected their request for absorption stating that absorption of 62 employees made in G.O.(Ms)No.76, dated 31.05.2019 is for one time consideration. The said reason cited by the second respondent is not only without application of mind, but against the G.O.(Ms)No.150, dated 19.08.1998 on the basis of seniority. Hence, the present Writ Petition.



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3. The learned counsel appearing for the petitioners would submit that the request of the petitioners was rejected on the ground that they were not appointed under G.O.(Ms)No.125, Municipal Administration and Water Supply Department, dated 27.05.1999 and G.O.(Ms)No.150, Municipal Administration and Water Supply (Peru-2) Department, dated 19.08.1998 and those persons appointed under the non provisional service under the said Government Orders are entitled to get absorption for 20% quota earmarked for Municipal Service. The petitioners were appointed prior to G.O.(Ms)No.125 and G.O.(Ms)No.150 and they are not absorbed in 20% quota. He further submitted that each Town Panchayat is a separate Union and whenever vacancy arose, the petitioners' names have to be considered disregarding 20% quota already allotted to the candidates in terms of the Government Orders. Hence, this Court may permit the petitioners to file a fresh representation, if any vacancy arises in the respective Town Panchayat in future and issue further directions that the respondents may consider and pass orders.



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4. Per contra, the learned Special Government Pleader appearing for the respondents would submit that the petitioners who were appointed with reference to G.O.(Ms)No.199, Municipal Administration and Water Supply (TP-2) Department, dated 12.08.1997, are eligible for promotion in 20% vacancies reserved under G.O.(Ms)No.150, Municipal Administration and Water Supply (Peru-2) Department, dated 19.08.1998, subject to finding place in the combined district level seniority list of feeder posts. On the other hand, the Government passed G.O.(Ms)No.76, dated 31.05.2019 to address the grievance of the candidates originally appointed in Entry Level Post, in spite of qualifying for appointment as Junior Assistant / Bill Collector. The petitioners shall compete with the employees of feeder posts for promotion to the post of Junior Assistant / Bill Collector in 20% reserved under G.O.(Ms)No.150, dated 19.08.1998 and they were not eligible under G.O.(Ms)No.76, dated 31.05.2019. Hence, the second respondent passed the impugned order rejecting the request of the petitioners. Hence, he prayed for dismissal of the Writ Petition.



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5. Heard the learned counsel appearing for the parties and perused the materials placed before this Court.

6. Considering the limited request made by the learned counsel appearing for the petitioners, this Court, without interfering with the order impugned in this Writ Petition, directs the respondents that if any vacancy arises in future, opportunity may be given to the petitioners and pass appropriate orders based on the seniority as Bill Collector or Junior Assistant.

7. Accordingly, this Writ Petition is disposed of with the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes / No

Speaking Order : Yes / No

vji



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