



W.P.(MD)No.3212 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.3212 of 2016

and

W.M.P(MD)Nos. 2803 & 2804 of 2016

P.Akkaiyan

... Petitioner

VS.

1. The State of Tamil Nadu,
Represented by Secretary to Government,
Municipal Administration and Water Supply Department,
Chennai.
2. The Director of Municipal Administration,
Chepauk, Chennai.
3. The Commissioner,
Dindigul Municipal Corporation,
Dindigul.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of *Certiorarified Mandamus*, calling for the records relating the impugned orders of the 2nd Respondent in his proceedings in ROC.No. 5961/J1/2015 dated 31.03.2015 & Na.Ka.No.5691/J1/2015 dated 31.03.2015 and



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that of the 3rd Respondent's order in his proceedings in Na.Ka.No.9989/2014/H1 dated 31.03.2015, quash the all as illegal and consequently directing the Respondents herein to permit the petitioner to join duty as Sanitary Supervisor in the 3rd Respondent Corporation and allow him to work till he attains the age of superannuation, i.e., upto 31.03.2017.

For Petitioner : Mr.D.Srinivasa Ragavan

For R-1 & R-2 : Mr.P.Thambidurai,
Government Advocate (Civil Side)

For R-3 : Mr.J.Lawrance

ORDER

This Writ Petition is filed for issuing Writ of *Certiorarified Mandamus*, to quash the impugned orders of the 2nd Respondent in his proceedings in ROC.No.5961/J1/2015, dated 31.03.2015 & Na.Ka.No. 5691/J1/2015, dated 31.03.2015 and that of the 3rd Respondent's order in his proceedings in Na.Ka.No.9989/2014/H1, dated 31.03.2015, and also sought for a consequential direction to the Respondents to permit the petitioner to join duty as Sanitary Supervisor in the 3rd Respondent Corporation and allow him to work till he attains the age of superannuation, i.e., upto 31.03.2017.



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2. Heard Mr.D.Srinivasa Ragavan, learned counsel appearing for the petitioner and Mr.P.Thambidurai, learned Government Advocate (Civil Side), appearing for the respondent Nos.1 & 2 and Mr.J.Lawrance, learned counsel appearing for the 3rd respondent. Perused the material documents available on record.

3. The petitioner has joined Municipal service on 31.05.1983. The Dindigul Municipality was upgraded as per the Dindigul City Municipal Corporation Act, 2013 [Act 25 of 2013]. The existing employees were granted an option to exercise either to serve in the Corporation service or they can continue in the Municipal service. If the employee want to continue for the municipal service then the employee would be given retrospective benefits and if an employee is opting to shift to Corporation service then they will be taken in the Corporation service. ***Section 9(6)(a) of the Dindigul City Municipal Corporation Act [No.25], 2013***, is extracted hereunder:

“ The provisions prescribed in the “Dindigul City Municipal Corporation Act [No:25], 2013 as follows:



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9.(6) Notwithstanding anything contained in this Act, every officer or employee, who immediately before the date of the commencement of this Act was in the service of the Municipality shall, on and from the date of such commencement be deemed to be an officer or employee of the Corporation.

(a) The terms and conditions applicable to such officers and employees consequent on their absorption in the service of the Corporation shall not be less favourable than those applicable to such commencement, as regards pay and allowances, leave, pension, gratuity, provident fund and age of superannuation.

Provided further that any officer or other employee serving in the Municipality shall be given an option to be exercised within such time and in such manner as may be prescribed either to be absorbed in the service of the Corporation or to be transferred to the service referred to in Section 73-A of the District Municipalities Act or to be retrenched from the service of the Municipality on such retrenchment benefits as may be prescribed.

4. The contention of the petitioner is that, ***Section 9(6)(a) of the Dindigul City Municipal Corporation Act [No.25], 2013***, provides pay protection along with other protection like, allowances, leave, pension, gratuity, provident



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fund, at the age of attaining superannuation. In the Corporation service, the age of superannuation is fixed as 60 years. The petitioner is claiming to extend his service until 60 years. The respondents have denied stating that the same cannot be granted since the petitioner is retained in Municipal service. Moreover, the Government is the authority to grant relaxation, hence the case ought to be placed before the Government for necessary orders. The service papers of the petitioner was not placed before the Government for obtaining necessary order.

5. Hence, this Court deems fit to remand back the matter to the 2nd respondent to place the service papers before the 1st respondent for obtaining necessary order.

6. Accordingly, the 2nd respondent is directed to place all the service papers of the petitioner before the 1st respondent for obtaining necessary order. The 1st respondent is directed to consider the claim of the petitioner, in the light of the ***Section 9(6)(A) of the Dindigul City Municipal Corporation[No.25], Act, 2013***. The said exercise shall be completed, within a period of 12 weeks from the date of receipt of a copy of the order.



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7. With the above direction, this Writ Petition is disposed of.

No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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To

1. The State of Tamil Nadu,
Represented by Secretary to Government,
Municipal Administration and Water Supply Department,
Chennai.
2. The Director of Municipal Administration,
Chepauk, Chennai.



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S.SRIMATHY, J

ksa

Order made in
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