



W.P.No.1047 of 2015

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.1047 of 2015

V.M.Venkudusamy

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Petitioner

Vs

1. The Secretary to Government,
Finance (Pay Cell) Department,
Fort St.George, Chennai – 600 009.

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

3. The Commissioner of
Municipal Administration,
Chepauk, Chennai – 600 005.

4. The Commissioner,
Erode City Municipal Corporation,
Erode.

5. The Assistant Commissioner,
Zone-3, Erode City Municipal Corporation,
Erode.

(formerly known as Executive Officer,
Surampatti 3rd Grade Municipality)

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Respondents



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PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the records connected with the proceedings issued in Na.Ka.No.3718/14/C1 dated 02.01.2015 passed by the 4th respondent and quash the same and consequently direct the respondents to upgrade the petitioner as Electrician Grade I from the post of Grade II as if done in the case of Rajamani and others issued in G.O.Ms.No.123 MAWS Department (Na.Pa.3) dated 28.02.2011.

For Petitioner : Mr.S.Ilamvaludhi
For R1 to R3 : Mr.R.P.Murugan Raja
Government Advocate
For R4 & R5 : Mr.P.Srinivas

ORDER

This Writ Petition has been filed challenging the proceedings dated 02.01.2015 passed in Na.Ka.No.3718/14/C1 by the fourth respondent, thereby rejected the request made by the petitioner to upgrade him as Electrician Grade-I to the post of Grade-II.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the materials available on record.



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3. The petitioner had joined in service on 12.04.2002 as Electrician Grade-II in Sivagiri Town Panchayat. Thereafter, he was transferred to Surampatti Municipality on 13.10.2003 as Electrician Grade-II (Skilled Assistant Grade-II). Later the Town Panchayat was upgraded as Municipality and now the petitioner is working as Electrician Grade-II in the said Municipality viz., the fourth respondent herein. The petitioner produced ITI Certificate in Electrician and Fitter with SSLC pass. The petitioner made a representation on 12.10.2007 seeking promotion to the post of Electrician Grade-I and he possessed SSLC and ITI Certificate in Electrician and Fitter.

4. Even as early as in the year 1986, the Government issued an order in G.O.Ms.No.762 Finance (Pay and Cell) dated 20.08.1986, the qualification and pay scales are prescribed under :

Qualification prescribed for I.T.I.Course	Ordinary Grade	Selection Grade
S.S.L.C. passed plus I.T.I.Certificate	Rs.610 – 1075	Rs. 750 – 1230
S.S.L.C. failed plus I.T.I.Certificate	Rs.555 – 970	Rs. 610 – 1075



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5. Accordingly, a Circular was issued on 10.06.1999. Since the petitioner's earlier representations were not considered, again he made another representation dated 15.07.2011. On receipt of the said representation, it was forwarded to the Commissioner of Municipal Administration, Chepauk, Chennai, through the Surampatti Municipality by its proceedings dated 15.07.2011. In fact, the Regional Director of Municipal Administration, Tiruppur, had stated that G.O.Ms.No.762, Finance (Pay and Cell) Department, dated 20.08.1986 applies to the petitioner to be promoted from the post of Electrician Grade-II to Grade-I. It was also pointed out by the Regional Director of Municipal Administration, Tiruppur, that similarly placed persons working as Electricians and Fitters Grade-II were promoted to the post of Grade-I vide G.O.Ms.No.123 Municipal Administration and Water Supply Department, dated 28.02.2011 on the ground that they possess S.S.L.C.Certificate and ITI Certificate. This view squarely applies to the petitioner. Without considering the above, the fourth respondent rejected the request of the petitioner and passed the impugned order dated 02.01.2015.

6. A perusal of the counter filed by the fourth respondent reveals



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that the petitioner is seeking the benefit of promotion to the post of Skilled Assistant Grade-I from the post of Skilled Assistant Grade-II. The petitioner, relies upon G.O.Ms.No.123 Municipal Administration and Water Supply Department, dated 28.02.2011, passed in favour of three persons. It was issued as matter of ratification of pay scale wrongly given to those persons and other local bodies. Therefore, the said G.O.Ms.No.123 will not apply to the petitioner. Further, the petitioner, who is holding the post of Skilled Assistant Grade-II, is eligible for promotion to the post the Skilled Assistant Grade-I on the basis of his seniority in the Grade-II post and on the availability of the vacancy in the Grade-I post. At present there are 12 numbers of vacancies in the Skilled Assistant Grade-I posts and the Skilled Assistant Grade-II posts were eligible for promotion to the same on the basis of seniority in the Grade-II posts in the ratio of 1 : 2 with 1 direct recruitment and 2 promotions. As there are 12 vacancies, 4 posts were filled up by direct recruitment and 8 posts were filled up by promotion. Therefore, the petitioner is not eligible to seek for promotion to the Skilled Assistant Grade-I as a matter of right.

7. The learned counsel for the petitioner relied upon the orders passed by this Court in W.P.No.3855 of 2000 dated 30.07.2009, in



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which it is held that on the basis of the G.O., this Court ordered to promote to the posts of Skilled Assistant Grade-I with all consequential service benefits. He also relied upon the Judgement of Madurai Bench of this Court in W.P.(MD) No.15319 of 2014 dated 08.12.2021 directed to grant promotion to the petitioner as per the G.O..

8. Admittedly, the petitioner is qualified with SSLC and holds ITI Certificate in Electrician and Fitter. As per G.O.Ms.No.762 Finance (Pay Cell) Department dated 20.08.1986, the petitioner is eligible for promotion to the post of Electrician Grade-I (Skilled Assistant Grade-I). Therefore, the impugned order in Na.Ka.No.3718/14/C1 dated 02.01.2015 passed by the 4th respondent is hereby quashed. The fourth respondent is directed to issue appropriate orders promoting the petitioner to the post of Electrician Grade-I (Skilled Assistant Grade-I) with all consequential service benefits such as seniority, promotion etc., within a period of three months from the date of receipt of a copy of this order.

9. In the result, this writ petition stands allowed. There shall be no order as to costs.



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Internet: Yes

Index: Yes/No

Speaking/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

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