



WEB COPY



W.P.No.18975 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2023

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.No.18975 of 2011

1.P.V.Suresh Kumar
2.S.Manjuladevi
3.K.Venkatesan
4.M.s.Balaji
5.J.V.Rangarajan
6.A.Ravichadran
7.D.Gajendra Babu
8.I.Nehru Rajan
9.Sarojini

...Petitioners

vs.

The Commissioner,
Chennai City Municipal corporation,
Chennai – 600 003.

... Respondent

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the respondent issued in Circular GDC.Na.Ka.No.E5/24801/2011 dated 20.07.2011 in so far as the petitioners are concerned, and to quash the same and to direct the respondent to regularize the services of the petitioners in the post the License Inspector from the date of their appointment, with time scale of pay attached to the said post and pass such other orders.



W.P.No.18975 of 2011

WEB COPY

For Petitioners : Mr.T.Ranganathan

For Respondent : Mr.S.Gopinathan

ORDER

This Writ Petition has been filed seeking to quash the order of the 1st respondent dated 20.07.2011 in so far as the petitioners are concerned and direct the respondent to regularise the service of the petitioners in the post of License Inspector from the date of their appointment with the time scale of pay attached to the said post.

2. Heard Mr.T.Ranganathan, learned counsel for the petitioners and Mr.S.Gopinathan, learned counsel appearing for the respondent.

3. Mr.T.Ranganathan, learned counsel for the petitioners would submit that the petitioners were appointed as Typist in the year 1999 and were promoted as Assistant in the year 2005. The next promotion was to the post of Licence Inspector which carries a pay scale of Rs.5000 – 150 – 8300. The petitioners were all promoted as Licence Inspector based upon a



W.P.No.18975 of 2011

panel that was prepared on 01.03.2009. Pursuant to the preparation of the said panel, the Bye-law prescribing the qualification to the post of Licence Inspector was sought to be revised by holding that the posts of Assistants, Assistant Store Keeper, License Inspector, Computer-cum-Clerk and Conservancy Supervisor shall all be treated as common categories. Even though the petitioners were posted as Licence Inspector their salary was on the same scale of pay as Assistant but not as Licence Inspector, which had a higher scale of pay. Again by a further Resolution dated 29.06.2011 the respondent had reverted back to the original qualification as regards to the post of Licence Inspectors. Pursuant to the said Bye-law, the respondent has issued a Circular to prepare a panel for promotion to the post of Licence Inspector of persons who have been qualified to seek such promotion as on 31.12.2007. According to the petitioners, the same would affect their interest apart from which their services should be regularised in the post of Licence Inspector from the date of their original promotion along with the pay scale attached.

4. Countering his arguments, Mr.S.Gopinathan, learned counsel appearing for the respondent would submit that the post given to the



W.P.No.18975 of 2011

petitioners as Licence Inspector with effect from 11.06.2010 was only as a duty arrangement in the interest of administration and they were not actually granted any promotion. The panel that was prepared on 01.03.2009 and published in Circular dated 12.01.2010 was placed before the Appointment Committee for approval on 20.04.2010. However, taking into consideration of the subsequent Resolution keeping the cadre of Assistant and Licence Inspector of the same category, approval was not granted. Therefore, the petitioner would have to necessarily seek their inclusion in the panel that is supposed to be made again based on the subsequent resolution reverting back to the original position and therefore, they cannot have been deemed to have been promoted on 11.06.2010 and it is only the posting on the same wages that they have received in the post of Assistant. Therefore, there is no error in the order passed by the respondent.

5. I have considered the submission made by the learned counsels appearing on either side and perused the materials available on record before this Court.

6. The petitioners names were all included in the panel on



W.P.No.18975 of 2011

01.03.2009 for the promotion to the post of Licence Inspector from the cadre of Assistant. The aforesaid order refers to the two Resolutions namely the Resolution No.469/89 dated 08.06.1989. The said Resolution relates to the fixation of guidelines for promotion and the second one relates to a Resolution No.45/2010 dated 28.01.2010. The second Resolution is the amendment that is sought to be made on 28.01.2010. The order dated 11.06.2010 had been made based upon the second Resolution by redesignating the post of Assistant held by the petitioners as Licence Inspector and therefore, the salary was also directed to be fixed on the same basis. It is not the case of the respondent that the Resolution dated 28.01.2010 had been approved by the Government at that time when the order dated 11.06.2010 was passed or atleast thereafter. However, it is pertinent to see that by a further Resolution dated 28.01.2010 had been super-seeded and the position prior to 28.01.2010 had been restored.

7. The petitioners have all been included in the panel of the year 2009 for promotion to the post of Licence Inspector based on the Bye-law prevailing at that point of time. But, however, without giving effect to the said panel, taking into account a revised Bye-law, the petitioners were all



W.P.No.18975 of 2011

redesignated as Licence Inspector. The revised Bye-law has not been approved by the Government for the respondent to implement. It is also relevant to take into consideration that the revised Bye-law was again revisited in view of the difficulties faced and the position *ante* 28.01.2010 had been restored. It is not the case of the respondent that the petitioners were not eligible to be promoted. The situation had arisen due to the own making of the Respondent/Corporation in trying to revise an unworkable Bye-law which it had to retract on the situation that had arisen, as noted in the Minutes to the Bye-law of the year 2011 in amending the 2010 Bye-law. Since the petitioners have all been redesignated as Licence Inspector as early as on 11.06.2010 based upon the panel of promotion arrived at on 01.03.2009, the petitioners shall all been deemed to have been promoted to the post of Licence Inspector which even today is a promotional post and they would be entitled to all attendant benefits.

8. In view of the aforesaid reasonings, this Writ Petition is disposed of with a direction to the respondent to treat the petitioners as being promoted on 11.06.2010 and to pay all attendant benefits to them. However, there shall be no order as to costs.



W.P.No.18975 of 2011

WEB COPY

11.12.2023

gba
Index : Yes/No
Speaking order : Yes/No
Neutral Citation : Yes/No

To

The Commissioner,
Chennai City Municipal corporation,
Chennai – 600 003.



WEB COPY



W.P.No.18975 of 2011

K.KUMARESH BABU, J.

GBA

W.P.No.18975 of 2011



WEB COPY



W.P.No.18975 of 2011

11.12.2023