



W.P.No.19950 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2023

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.19950 of 2021
and WMP Nos.21207, 21208 and 21211 of 2021

G.Somasundaram

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Department of Municipal Administration
and Water Supply,
Fort St.George,
Chennai.
2. The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai – 600 003.
3. The Deputy Commissioner (Works),
Greater Chennai Corporation,
Ripon Buildings,
Chennai 600 003.
4. The Assistant Commissioner,
General Administration and Pension,
Greater Chennai Corporation,
Ripon Buildings,
Chennai 600 003

...Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 3rd respondent herein vide his proceedings in Tha.Tho.Mai.Na.Ka.No.C1/1492/2021 and quash the impugned Circular dated 24.08.2021 as highly arbitrary and illegal and further for a direction directing the respondents herein to consider the petitioner's promotion to the post of programmer based on the Saving Clause provided in G.O.Ms.No.339 dated 26.08.2010 in view of the petitioner's representation dated 21.08.2021.

For Petitioner : Mrs.Karthika Ashok
for Mr.J.Ashok

For Respondents : Mr.T.Arun Kumar,
Additional Government Pleader for R1
Mr.A.S.Ragul Adhithyan for
M/s.P.T.Ramadevi,
Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned order passed by the 3rd respondent herein vide his proceedings in Tha.Tho.Mai.Na.Ka.No.C1/1492/2021 and for a consequential direction to the respondents herein to consider the petitioner's promotion to the



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post of programmer based on the Saving Clause provided in G.O.Ms.No.339 dated 26.08.2010 in view of the petitioner's representation dated 21.08.2021.

2. The petitioner was working as a Data Entry Operator in the erstwhile Madhavaram Municipality till 2011. Subsequently, the Madhavaram Municipality was merged with Chennai Corporation in the year 2011. From then onwards, he continued as a Data Entry Operator and in the year 2015, he was given promotion to the post of Assistant Programmer. This promotion was given basing upon the GO Ms.No.339 dated 26.08.2010. In the year 2013, the Chennai Corporation had passed a resolution No.394 dated 26.06.2013 by adopting GO Ms.No.339 dated 26.08.2010. Infact, the petitioner has given with the promotion to the post of Assistant Programmer only pursuant to the above resolution dated 26.06.2013 which adopted the GO Ms.No.339 dated 26.08.2010. Admittedly, for the post of Programmer, the GO Ms.339, contemplates a Master degree in Computer Science and Master degree in Science / Information Technology/ Computer Science. Since the petitioner does not



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have the prescribed qualification to be considered to be promoted to the post of Programmer and hence, his claim is not considered. To the shock and surprise of the petitioner, the 3rd respondent has passed a Circular vide No.Tha.Tao.Mai.Na.Ka.No.E1/1492/2021 dated 24.08.2021 calling for preparation of panel among the eligible promotes to the post of programmer. Challenging the said impugned order, the present writ petition has been filed before this Court.

3. When the 2nd respondent Corporation had chosen to adopt G.O.Ms.No.339 dated 26.08.2010 and had passed a resolution No.394/13 dated 26.06.2013 and have amended their bye-laws with effect from 31.07.2014 through their resolution No.427 of 2015, they had gone beyond the GO Ms.No.339 dated 26.08.2010. Or in other words, the Chennai Corporation by its own resolution has opted to come under the conditions of the order issued by the Government in GO Ms.No.339 dated 26.08.2010. The petitioner who got the benefit of getting one promotion in the post of Assistant Programmer based upon the above resolution which adopts the GO No.339 dated 26.06.2013 cannot claim



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that the GO is applicable only for the future vacancies that might be created subsequent to resolution No.339 dated 26.08.2010 and he is eligible so far as the earlier vacancies are concerned.

4. According to the petitioner, his degree in Bachelor Degree in Computer Science itself is sufficient to get promotion to the post of Programmer in any existing vacancies and the Resolution dated 26.06.2013, will come into effect only for the future vacancies. When the G.O.Ms.No.339 dated 26.08.2010 has got implemented by virtue of resolution No.394/2013 dated 26.06.2013 and resolution No.427 of 2014 dated 31.07.2014 and the petitioner is also enjoying the benefit by getting the promotion to the post of Assistant Programmer by virtue of the promotion order dated 02.09.2015 cannot turn around now and claim that those resolutions have not got anything to do with the promotion and that the resolutions have not obtained the sanction of the Government.

5. The petitioner who had acquainted himself to the regulations of appointment and promotion adopted by the Council through its



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resolution has selectively chosen to challenge the same by accepting promotion at one stretch and objecting validity of the resolution at the other stretch.

6. This Court does not find any merit in the arguments of the petitioner and accordingly, this writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

23.11.2023

Index : Yes
Internet : Yes/No
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R.N.MANJULA, J.

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To
The Commissioner,
Corporation of Chennai,
Chennai 600 003

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