



WEB COPY



W.P.No.27268 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.27268 of 2021

R. Somasundaram

... Petitioner

Vs

1. The Commissioner

Coimbatore City Municipal Corporation,
Coimbatore – 641 001.

2. The Commissioner of Municipal Administration

No.75, Santhome High Road,
MRC Nagar, Chennai 600 028.

3. The Secretary to Government

Municipal Administration and Water Supply Department
Secretariat, Fort St.George,
Chennai 600 009.

...

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of mandamus directing the 3rd respondent to pass appropriate orders on the proposal of the 1st respondent submitted in his letter Na.Ka.11496/2020/MC-9 dated 08.02.2021 in the light of the orders passed



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by the Hon'ble Division Bench in W.A.No.2833 of 2013 dated 13.08.2019 and the orders already passed by the 3rd respondent in G.O.(2D) No.30 MAWS Department dated 29.07.2021 within a reasonable period as may be fixed by this Court.

For Petitioner : Mr.T.Ranganathan
For Respondents : Mr.K.Magesh for R1
Mrs.C.Meera Arumugam
Addl.Govt. Pleader for R2 & R3

ORDER

This writ petition has been filed challenging the order passed by the first respondent in Na.Ka.11496/2020/MC-9, dated 08.02.2021 and directing the third respondent to regularise the service of the petitioner as Driver in the Coimbatore City Municipal Corporation, as it was done by the third respondent to Thiru.S.Dharmaraj vide G.O.(2D).No.30 MAWS Department dated 29.07.2021 and to the 10 contingent employees working on daily wages in the Coimbatore City Municipal Corporation as Skilled Assistants Grade - II in the time scale of pay relaxing the Rules relating to the method of appointment, age limit and communal rotation, in G.O.(D).No.363, MAWS Department, dated 11.09.2018, within a reasonable period.



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2. The petitioner is working as a Driver in Coimbatore City Municipal Corporation. He was initially appointed on daily wage basis in Vellakinaru Town Panchayat. While so, he was absorbed in the Coimbatore City Municipal Corporation by virtue of G.O.(Ms).No.117, MAWS Department dated 19.12.2012. The Coimbatore City Municipal Corporation Council, in its meeting held on 18.03.2013, recommended to the Government to regularise 52 employees appointed on daily wages and on consolidated pay as against the posts sanctioned in G.O.(Ms).No.77, MAWS Department (Election), dated 13.05.1988 with effect from 19.12.2012. Accordingly, a proposal was recommended by the second respondent Commissioner of Municipal Administration to the first respondent Government vide letter dated 18.09.2013, which was followed by another proposal letter dated 27.11.2019. Thereafter, in response to the clarifications sought by the Deputy Secretary to Government, MAWS Department, the City Municipal Corporation furnished the complete service details of 26 employees now working in Coimbatore City Municipal Corporation. Finding no response, the Commissioner, Coimbatore City Municipal Corporation, once again sent a letter dated 08.02.2021 seeking regularisation of service of the petitioner as Driver.



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3. When the matter stood thus, the first respondent, vide letter dated 19.07.2021, rejected the petitioner's request for absorption to the existing vacancy of Driver on the ground that there is no provision for regularisation of daily wage/consolidated pay employees in the post of Driver as per G.O.(Ms).No.363, Municipal Administration and Water Supply Department, dated 11.09.2018.

4. Further, according to the petitioner, the said order of rejection has not been communicated to him. According to him, the third respondent, vide G.O(2D).No.30, MAWS Department, dated 29.07.2021, has regularised the service of one Dharmaraj, a water supply worker, who was initially appointed in Saravanampatti Town Panchayat and subsequently, absorbed in the Coimbatore City Municipal Corporation, pursuant to the directions of the Hon'ble Division Bench of this Court vide Judgment dated 13.08.2019 in W.A.No.2833 of 2018, whereas, the petitioner's case has been turned down which is a clear discrimination.

5. Challenging the aforesaid order of rejection dated 19.07.2021 and



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for a direction to the third respondent to regularise the service of the petitioner as Driver in the Coimbatore City Municipal Corporation as was done in the case of Dharmaraj, this writ petition has been filed.

6. The learned counsel for the petitioner submitted that the act of the third respondent in regularising the services of Dharmaraj and rejecting the proposal of the first respondent for regularising the service of the petitioner, tantamount to selective discrimination. The Commissioner, Coimbatore City Municipal Corporation, Coimbatore has already sent a revised proposal to the Government on 11.11.2021. During the pendency of the above writ petition, the Government has issued orders in G.O.Ms.No.396, Municipal Administration and Water Supply Department, dated 11.07.2023 for regularising the service of one K.M.Duraisamy from 23.06.2006. Hence he prayed that similar orders shall be issued to the petitioner herein also.

7. The learned Standing Counsel appearing for the respondents 2 & 3 reiterated the stand taken by the third respondent in the impugned order and prayed for dismissal of the writ petition.



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8. Considering the facts and circumstances of the case, the third respondent is directed to pass appropriate orders on the proposal sent by the first respondent dated 11.11.2021 in the light of the G.O.Ms.No.396, Municipal Administration and Water Supply Department, dated 11.07.2023 where a similar relief of regularisation was granted to S.Durairaj within a period of eight weeks from the date of receipt of a copy of this order.

9. This writ petition is disposed of with the above directions. No costs.

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Index: Yes/No
Speaking/Non-speaking Order
dpq



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To

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Coimbatore City Municipal Corporation,
Coimbatore - 641001.
2. The Commissioner of Municipal Administration,
No.75, Santhome High Road,
M.R.C.Nagar, Chennai - 600028.
3. The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai - 600009.



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J. SATHYA NARAYANA PRASAD, J.

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