



W.P.(MD)No.1199 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.1199 of 2023

and

W.M.P(MD) Nos.1108 & 1109 of 2023

P.Aadanam

: Petitioner

Vs.

1.Palani Municipality
Rep. by its Commissioner,
Palani Municipal Office,
Palani,
Dindigul District.

2.The Health Officer
Palani Municipality,
Palani Municipal Office,
Palani,
Dindigul District.

3.The Dean
Government Rajaji Hospital,
Madurai.

: Respondents

(R3 impleaded as per order of this Court, dated 23.01.2023)



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No.5483/2022/H1 dated 17.11.2022 and quash the same and permit the petitioner to continue in service till 30.04.2027

For Petitioner : Mr.R.Subramanian
for Mr.M.Saravanan

For Respondents : Mr.L.P.Maurya - for R1 & R2
Mr.S.P.Maharajan - for R3
Special Government Pleader

ORDER

This writ petition has been filed to quash the impugned order passed by the 1st respondent in Na.Ka.No.5483/2022/H1 dated 17.11.2022 and permit the petitioner to continue in service till 30.04.2027

2. The learned counsel appearing for the petitioner submitted that the petitioner joined in the respondent Municipality as daily wage worker in



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the year 1995 and the petitioner had continuously working in the said post. In the year 2006, the State Government issued a G.O.Ms.No.21, Municipal Administration and Water Supply Department regularizing the services of the daily wage workers who worked for 10 years as on 01.10.1996 and the petitioner is an illiterate and he don't have the birth certificate and based on his declaration, his age is mentioned as 38 years, while opening the service records. However, the respondent Municipality unilaterally without providing opportunity to the petitioner and arrived a conclusion the date of birth of the petitioner is 07.02.1963 and passed the impugned order, dated 17.11.2022, as if the petitioner going to retire on 28.02.2023. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner further submitted that admittedly, the petitioner born on 19.04.1967 and the same was recorded in the service records as declared by the petitioner. If at all, any dispute with regard to the age, the respondent ought to have referred the petitioner to the medical board for ascertaining the biological age. However, without referring to the medical board, unilaterally had passed the impugned order



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dated 17.11.2022 stating that the petitioner is going to retire on 28.02.2023, is not sustainable one. Hence, this Court may issue a direction to the respondents to refer the petitioner to the Medical board for ascertaining his correct age.

4. In view of the above, this Court, suomottu impleads the Dean, Government Rajaji Hospital, Madurai, as the third respondent in this writ petition and that the petitioner has no objection to implead the third respondent.

5. The learned Special Government Pleader who takes notice on behalf of the third respondent, has no serious objection.

6. The learned counsel appearing for the respondents 1 and 2 submitted that this Court may issue a direction to refer the petitioner to the Dean, Government Rajaji Hospital, Madurai, for ascertaining the correct age and based on the Doctor's opinion, appropriate orders will be passed.



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7. Heard the learned counsel on either side and perused the materials available on record.

8. Admittedly, the petitioner entered into service in the year 1995 subsequently, his service was regularised and thereafter, the respondent passed the impugned order stating that the petitioner is going to retire from service on 28.02.2023. Challenging the same, the present writ petition is filed. However, the fact remains when the petitioner entered into service he did not produce the birth certificate and in the absence of birth certificate, it is the duty cast upon the respondent Municipality to refer the employee to the Medical Board for ascertaining the correct age. However in the present case, the said procedure was not followed.

9. In view of the above, the impugned order is set aside and the first respondent is directed to refer the petitioner to the Dean, Government Rajaji Hospital, Madurai, within a period of two weeks from the date of receipt of a copy of this order and the Dean, Government Rajaji Hospital, Madurai, is directed to issue a certificate with regard to the petitioner's age



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on or before 25.02.2023. After receipt of the same, the first respondent is directed to pass appropriate orders, immediately.

10. With the above directions, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

23.01.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM



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M.DHANDAPANI, J.

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