



W.P.(MD)No.2667 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.2667 of 2023

P.Narayanan

... Petitioner

Vs.

1.The Secretary

Municipal Administration and Water Supply Department,
Secretariat,
Chennai.

2.The Director of Town Panchayats,

75, Santhom Highways,
Rajaannamalai Puram,
Patinampakkam,
Chennai - 600 108.

3.The District Collector

Tuticorin District,



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Tuticorin.

4.The Executive Officer

Town Panchayat,

Authoor,

Tuticorin District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the respondents to redesignate the petitioner as Junior Assistant in the fourth respondent Town Panchayat with effect from the date of his initial appointment and confer him all service monetary benefits, by considering the petitioner's representation, dated 19.12.2022.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.S.P.Maharajan - for R1 to R3

Special Government Pleader

Mr.P.Subbiah - for R4

Special Government Pleader

ORDER

This writ petition has been filed to direct the respondents to



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redesignate the petitioner as Junior Assistant in the fourth respondent Town Panchayat with effect from the date of his initial appointment and confer him all service monetary benefits, by considering the petitioner's representation, dated 19.12.2022.

2. The case of the petitioner is that the petitioner's father Paramasivan, while he was working as Sanitary Maistry in the fourth respondent Town Panchayat, died in harness on 12.06.2006. Thereafter, the petitioner made an application, dated 20.03.2007 seeking for Compassionate Grounds appointment and the same was considered and the petitioner was appointed as a Sanitary Maistry on 28.03.2007. Though the petitioner is eligible for appointment to the post of Junior Assistant as contemplated in G.O.Ms.No.1499, Labour and Employment Department, dated 03.08.1989 and G.O.Ms.No.206, MAWS Department, dated 02.11.1995 and he possessed a degree in B.E., (Mechanical Engineering). For a Junior Assistant, the requirement is only degree and in view of the above, the petitioner was given appointment as Junior Assistant in Perungulam Town Panchayat. However, the second respondent by proceedings, dated



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05.02.2010 cancelled the said appointment as Junior Assistant stating that his appointment is contrary to said G.O.Ms.No.150, dated 19.08.1998. Challenging the said cancellation order, the petitioner filed a writ petition before this Court in W.P.(MD) No.1903 of 2010 and the said writ petition was allowed on 21.11.2011 and the matter was remanded back to the first respondent/ authority for fresh consideration. Pursuant to which, a show-cause notice was issued and thereafter, a final order was passed vide order, dated 18.11.2013, reverting the petitioner to the post of Sanitary Maistry by the second respondent. Challenging the same, the petitioner filed a writ petition before this Court in W.P.(MD) No.20751 of 2013 and the same was dismissed on 23.07.2014. Without referring the above said Government Orders and on the ground that the person appointed on Compassionate Grounds appointment cannot entitled to be promoted as Junior Assistant. However, the petitioner is entitled to be appointed as Junior Assistant in terms of G.O.Ms.No.1499 dated 03.08.1989 and G.O.(Ms) No.206 dated 02.11.1995, for which, the petitioner made a representation, dated 18.12.2022 to the respondents to redesignate him as Junior Assistant, as per the above said Government Orders. However, no order was passed. Hence,



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the present writ petition is filed with the aforesaid prayer.

3. The learned counsel for the petitioner submitted that it would suffice this Court may issue a direction to the respondents to consider the petitioner's representations, dated 18.12.2022 and pass appropriate orders within a reasonable time.

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

5. The facts in the present case are not in dispute. Admittedly, the petitioner was appointed as Sanitary Maistry on Compassionate Grounds. However, subsequently, the petitioner claim that he is entitled to be appointed as Junior Assistant, accordingly, he was appointed as Junior Assistant. Subsequently, he was reverted back vide order, dated 18.11.2013, and the reversal order was challenged before this Court and this Court upheld the reversal order.

6. The grievance of the petitioner is that earlier there was a



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Government Order in the year 1989 and 1995 and the same was not considered. However, when the Government Order is available, the same was not cited by the petitioner before this Court and obtained an order of dismissal, contrary to the same, this Court cannot issue affirmative direction to the petitioner and it amounts to reviewing the earlier order passed by this Court and hence, the same is not permissible.

7. Accordingly, this writ petition is dismissed. No costs.

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

RM



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M.DHANDAPANI,J.

RM

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