



W.P.(MD)No.12508 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.12508 of 2020

S.Marthandan

... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat,
Chennai-600 009.

2.The Commissioner of Municipal Administration,
75, Santhome Highways,
Chennai-600 028.

3.The Commissioner of Municipality,
Virudhunagar Municipality,
Virudhunagar.

... Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, call for the records of the first respondent i.e. the Additional Chief Secretary to Government Municipal Administration and Water Supply Department Chennai



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relating to his impugned Government Letter No.29742/ME-1/2019-3 dated 19.03.2020 and quash the same and consequently direct the first respondent i.e. the Additional Chief Secretary to Government Municipal Administration and Water supply Department, Chennai to give the petitioner notional promotion as Bill Collector/Junior Assistant with effect from 1997 on par with his junior and similarly placed persons and arrange to sanction increments and refix the pension on par with his juniors, within a specified time frame.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.S.P.Maharajan
Special Government Pleader
for R1 and R2
Mr.K.P.Krishnadoss for R3

ORDER

This writ petition has been filed to call for the records relating to the impugned Government Letter No.29742/ME 1/2019-3 dated 19.3.2020 issued by the first respondent (i.e.,) the Additional Chief Secretary to Government Municipal Administration and Water Supply Department Chennai, quash the same and consequently, direct the first respondent to give the petitioner notional promotion as Bill



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Collector/Junior Assistant with effect from 1997 on par with his junior and similarly placed persons, sanction increments and refix the pension on par with his juniors, within a specified time fixed by this Court.

2. The case of the petitioner is that the petitioner joined duty in the third respondent Municipality in the year 1993 and based on his performance, the third respondent Municipality has also projected the case of the petitioner for absorption as Record Clerk and in addition to this, the Government has passed G.O.(3D).No.121, Municipal Administration and Water Supply Department, dated 23.08.1995, wherein the rules were relaxed in favour of the petitioner. In spite of this, a show cause notice has been issued on 24.10.1997. Challenging the same, he has filed a case before the Tamil Nadu Administrative Tribunal in O.A.No.10427 of 1997. After abolition of the Tribunal, the matter was transferred to this Court and the same was taken on file in W.P.No.32629 of 2006. This Court, vide order dated 26.06.2009, issued a direction to the concerned respondent to consider the request of the petitioner in terms of G.O.(3D).No.125, Municipal Administration and Water Supply



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Department dated 27.05.1999. Thereafter, the respondents relaxed the age of the petitioner and regularized the service of the petitioner in the post of Record Clerk from 21.09.1995. Thereafter, the petitioner was granted promotion to the post of Junior Assistant on 01.08.2013. However, the petitioner's junior, namely, Murugaiah, was given the promotion of Junior Assistant in the year 1997. Hence, the petitioner has made a representation claiming notional promotion as Bill Collector/Junior Assistant with effect from 1997 on par with his juniors and similarly placed persons. However, the same was rejected. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that admittedly, the petitioner has joined service in the third respondent Municipality in the year 1993 and his service was regularized in the cadre of Record Clerk with effect from 21.09.1995 as per G.O.Ms.No.91, Municipal Administration and Water Supply Department dated 15.10.2010. His junior was granted promotion in the year 1997, whereas, the petitioner was granted promotion only in the year 2013 and the



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petitioner retired from service in the year 2018. Hence, he made a representation on 06.07.2019 to step up his pay and promotion on par with his junior from 1997. However, the same was rejected. Challenging the same, the present writ petition has been filed.

4. The learned Special Government Pleader appearing for the respondents 1 and 2 would submit that the petitioner had been appointed as Record Clerk vide G.O(Ms).No.121, Municipal Administration and Water Supply Department, dated 23.08.1995, by relaxing the relevant service Rules, prior to issuance of G.O.(Ms).No.125, Municipal Administration and Water Supply Department, dated 27.05.1999, which is not applicable to the petitioner. Hence, the request of the petitioner was rejected.

5. Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.



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6. The facts in the present case are not in dispute. Admittedly, the petitioner joined duty in the third respondent Municipality in the year 1993 and his service in the cadre of Record Clerk was regularized from 21.09.1995 onwards. However, the petitioner was granted promotion only in the year 2013, whereas, the petitioner's junior was granted promotion in the year 1997. Hence, after his retirement, he made a representation in the year 2019 and the same was rejected on the ground that the petitioner had been appointed as Record Clerk by relaxing the relevant Rules prior to issuance of G.O.(Ms).No.125, Municipal Administration and Water Supply Department, dated 27.05.1999, which is not applicable to the petitioner. Therefore, instead of comparison with his junior namely Murugaiah, the petitioner would have challenged the order of the appointment of Murugaiah. However, he did not do the same and after a lapse of 22 years, the petitioner has made a claim for notional promotion from 1997 on par with his junior, namely, Murugaiah. Hence, the prayer sought for in the present writ petition cannot be granted.



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7. Accordingly, this Writ Petition is dismissed. No costs.

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NCC:Yes/No

Index:Yes/No

Internet:Yes/No

ssb

To

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Municipal Administration and Water Supply Department,
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Chennai-600 009.
- 2.The Commissioner of Municipal Administration,
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Chennai-600 028.
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M.DHANDAPANI,J.

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