



W.P.(MD)Nos.13011 and 12509 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:05.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)Nos.13011 of 2020

and

W.M.P(MD)Nos.10957 and 10958 of 2020

and

W.P(MD)No.12509 of 2020

and

W.M.P(MD)Nos.10682 of 10683 of 2020

W.P(MD)No.13011 of 2020:

U.Gulm Ghouse Khan

... Petitioner

Vs.

1.The Additional Chief Secretary,
Government of Tamil Nadu,
Municipal Administration and Water Supply(MC.4) Dept.,
Secretariat, Fort St. Goerge, Chennai – 600 009.

2.The Commissioner of Municipal Administration,
75, Santhome High Road, M.R.C. Nagar,
Raja Annamalai Puram, Chennai – 600 028.

3.The Commissioner,
Tirunelveli Municipal Corporation,
Tirunelveli – 627 001.

... Respondents



W.P.(MD)Nos.13011 and 12509 of 2020

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to calling for the records pertaining to the impugned proceeding Letter No. 6011/MC5/2020-1, dated 29.06.2020 issued by the first respondent of Municipal Administration and Water Supply(MC4) Department, forwarded through the third respondent Letter Na.Ka.En.C3/7248/2007, dated 09.07.2020 and quash the same and consequently direct the respondents to provide all service benefits and consequential benefits from the date of initial appointment made through letter No.6475/97/C2 dated 30.06.2006 and not from the date of G.O.No.167, dated 06.12.2019 for appointment by relaxing Typewriting qualification, within the stipulated time as fixed by this Court.

(In both W.Ps)

For Petitioner

For R-1 & R-2

For R-3

: Mr.C.Masilamani

: Mr.G.V.Vairam Santhosh,

Additional Government Pleader

: Mr.Aayiram K.Selvakumar

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1.M.Palanikumar
2.K.C.Ramasamy
3.K.Petchi Muthu
4.N.Raji
5.P.Shunmugiah
6.P.Kannan

... Petitioners

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For R-1 & R-2

: Mr.C.Masilamani

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Additional Government Pleader



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For R-3

: Mr.Aayiram K.Selvakumar

COMMON ORDER

Since the issue involved in these writ petitions is one and the same, these writ petitions are disposed of by way of this common order.

2. These writ petitions have been filed to quash the impugned orders in impugned proceeding Letter No.6011/MC5/2020-1, dated 29.06.2020, issued by the first respondent of Municipal Administration and Water Supply(MC4) Department, forwarded through the third respondent Letter Na.Ka.En.C3/7248/2007, dated 09.07.2020 and consequently, direct the respondents to provide all service benefits and consequential benefits from the date of initial appointment made through letter No.6475/97/C2 dated 30.06.2006 and not from the date of G.O.No. 167, Municipal Administration and Water Supply Department, dated 06.12.2019 for appointment by relaxing Typewriting qualification, within a stipulated period.



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2. The case of the petitioners is that the petitioners are Non Muster Roll(NMR) employees of the third respondent Corporation and subsequently, the petitioners' services were regularized vide letter of the third respondent in Letter No.Na.Ka.6475/97/C2, dated 30.06.2006 and posted as Junior Assistant-cum-Typist with a condition that they should possess the certificate in Typewriting Higher either in Tamil or English and possess Typewriting Lower qualification either in Tamil or English and the individuals who fails to acquire this qualification and also fails to get foundation training will be terminated from service without any prior intimation. The further case of the petitioners is that due to age factor and work load, the petitioners could not complete the said qualification within the prescribed period. Subsequently, based on the request of the petitioners to provide exemption from typewriting qualification, the third respondent sent a proposal to the second respondent through Na.Ka.No.C3/7248/2007 dated 21.06.2017, to place all the petitioners in the post of Conservancy Inspector. Since the said proposal was pending for a long time, one of the Non Muster Roll employees approached this Court. Subsequently, based on the orders of this Court, dated 30.10.2018,



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the first respondent accepted the proposal of the second respondent on condition that the petitioners should not ask for promotion and accordingly, G.O.Ms.No.167 dated 06.12.2019, was issued and there is no clause to refuse the petitioners' increment from the date of initial appointment from the year 2006.

3. The grievance of the petitioners is that when regularization was made by the respondents on 30.06.2006, then the appointment has to be effective from 30.06.2006 ie., from the original date of appointment and not from the date of appointment in the present post ie., Conservancy Inspector. Hence, the petitioners sent a representation to the third respondent requesting to consider their case and to give effect of their appointment from 23.02.2006 and to provide pending arrears of all the increments till 06.12.2019. However, the said request was refused vide the impugned order. Hence, challenging the same the petitioners have filed these writ petitions.



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4. The learned counsel appearing for the petitioners would submit that initially the petitioners were appointed as Non Muster Roll(NMR) employees and subsequently, their services were regularized by the third respondent in the time of scale of pay vide order, dated 30.06.2006. However, the petitioners were denied yearly increment stating that they were entitled for increment only from the year 2019 ie. from the date of issuance of G.O.Ms.No.167 dated 06.12.2019, which is not sustainable one and hence, prays for allowing of these writ petitions.

5. Per contra, the learned standing counsel appearing for the third respondent would submit that as per the proceedings, dated C2/6475/1997 dated 30.06.2006, the petitioners ought to have passed the typewriting exams prescribed for Junior Assistant-cum-Typist post within three years. But, even after extending the time limit for several years to pass the typewriting examinations, they did not pass the same till date. However, considering the livelihood and age, the Government have given them posting as Conservancy Inspector. Further, during the corona period, the Corporation is not in a position to fill up the vacancies of



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Junior Assistant-cum-Typist post and hence, the petitioners have been entrusted the work of Junior Assistant-cum-Typist/Revenue Assistant. This is only a temporary working arrangement. Moreover, in G.O.Ms.No. 167 dated 06.12.2019(Municipal Administration and Water Supply Department), no ratification was ordered. It is the G.O., appointing the petitioners in the post of Conservancy Inspector by relaxing the Typing qualification. Therefore, based on the said G.O., the petitioners cannot claim annual increment and hence, prays for dismissal of these writ petitions.

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

7. Admittedly, the petitioners initially worked as Non Muster Roll employees in the third respondent Corporation. Subsequently, considering the length of service, the petitioners' services were regularized. Since the petitioners did not possess the required the Typewriting qualification as per the condition, based on the request of



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the petitioners, they were given the post of Conservancy Inspector based on G.O.Ms.No.167 dated 06.12.2019. However, the petitioners claimed that they are entitled to yearly increment on par with the Junior Assistants from 30.06.2006 ie., from the date of regularization of their service. However, the same was rejected.

8. The issue is whether the petitioners are entitled to monetary benefits on par with Junior Assistants or not. Admittedly, the petitioners' services were regularized in the post of Junior Assistant on 30.06.2006 with a condition that the petitioners must have the qualification of Typewriting. It is also not disputed that the petitioners did not possess the said qualification. Subsequently, based on G.O.Ms.No.167 dated 06.12.2019, the petitioners were given the post of Conservancy Inspector. The petitioners did not completed the probation period and though concession was given, the petitioners did not avail such concession and therefore, the claim of the petitioner is not sustainable one and the same cannot be granted. Hence, the writ petitions are liable to be dismissed.



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9. In the result, these writ petitions are dismissed. No Costs.

Consequently, connected miscellaneous petitions are closed.

05.01.2023

pm

NCC:Yes/No

Index:Yes/No

To

The Additional Chief Secretary,
Government of Tamil Nadu,
Municipal Administration and Water Supply(MC.4) Dept.,
Secretariat, Fort St. George, Chennai – 600 009.



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M.DHANDAPANI,J.

pm

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