



W.P.(MD)No.3714 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD)No.3714 of 2016

R.Deepa

... Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Aringar Anna Maligai,
Tallakulam, Madurai – 625 002.

...Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Cetiorarified Mandamus, to call for records connected with MANI 27/24408/2015 dated 12.11.2015 on the file of the respondent and quash the same as illegal, consequently to direct the respondent to promote the petitioner's deceased husband from office assistant to Attender/Record clerk with effect from 01.09.1998 and to settle the terminal benefits of petitioner's deceased husband J.Ravichandran to her, by calculating the retirement benefits as her husband was worked as Attender/record clerk at the time of death by considering the petitioner's representation dated 04.01.2014 in accordance with law within the time stipulated by this Court.

For Petitioner : Mr.R.Alagumani



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For Respondent : Mr.S.Vinayak
Standing Counsel

ORDER

The petitioner challenges the proceedings of the first respondent in MANI 27/24408/2015, dated 12.11.2015 and sought for a direction to the respondents to promote her deceased husband from the post of office assistant to Attender/Record clerk with effect from 01.09.1998 and to settle the terminal benefits to her, by calculating the retirement benefits as her husband has worked as Attender/Record Clerk at the time of death.

2. The petitioner is the wife of one J.Ravichandran. He was appointed as an Office Assistant on 22.03.1996. The said Ravichandran sought for promotion to the post of Record Clerk and filed W.P.(MD) No.44809 of 2002. In the said Writ Petition, this Court passed the following order:-

“10. On considering the current factual position of the case and submissions made by the highly competent counsels on either side, this Court directs the first petitioner to submit one more representation to the respondent for his promotion. After receipt of the said representation, the respondent is directed to dispose the same on merits and consider his promotion on merits from date of obtaining the required



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educational qualification. While the writ petition was pending, the second petitioner, viz., Ravichandran had expired. However, the second petitioner has become eligible for promotion from Office Assistant to Record Clerk with effect from 01.09.1998 subject to verification and enquiry. Therefore, this Court directs the respondent to settle the terminal benefits of deceased / second petitioner to his legal-heir. Accordingly ordered. There is no order as to costs. Consequently, connected miscellaneous petition is closed.”

(Subject to verification)

3. The Service Rules which governs the Corporation demands that in order to be a record clerk the concerned person should have the qualification of X Standard and should have put in 5 years of service. Though the petitioner's husband obtained SSLC qualification on 03.12.1998, he has completed 5 years of service only on 21.03.2001. Taking into consideration the request of the deceased Ravichandran, he was promoted as Sanitary Supervisor on 18.07.2006 subject to the approval of relaxation of the Rules by the Government. However, the Government rejected the proposal to relax the Rules on 09.12.2013. That put an end to benefit given by the respondent.



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4. Apart from this fact, there were 48 persons who were senior to deceased Ravichandran as is clear from paragraph 10 of the counter affidavit. The post of Record Clerk had been declared as surplus on 01.01.1998 and 01.01.1999 and therefore, no promotion was given for that particular years. If 22.03.2001 is taken into consideration, Ravichandran could not have been promoted since there was no vacancy. It is to be noted that the respondent Corporation has specifically stated that the said Ravichandran would be entitled for promotion taking into consideration any vacancy that may arise subject to seniority. The seniority of the Ravichandran was considered as per the orders of this Court in W.P.No.44809 of 2002. Though he is entitled to be considered for promotion after 5 years since there were seniors to the deceased Ravichandran, he was not promoted.

5. Being satisfied with the reasons given in the impugned order, I am not inclined to grant the relief. The Writ Petition stands dismissed. No costs.

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NCC : Yes / No
Index : Yes / No

SJ

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V.LAKSHMINARAYANAN, J.

SJ

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