



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-07-2024

CORAM

**THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN**

WA No.996 of 2015

R.Sasipriya

.. Appellant

-VS-

1.The State of Tamil Nadu,
Represented by the Secretary to the Government,
Municipal Administration and Water Supply
Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.

3.T.Gnanavel

.. Respondents

Writ Appeal is preferred under Clause 15 of the Letters Patent against
the order passed by this Court in WP No.4704 of 2005 dated 19.04.2012.



For Appellant : Mr.K.Rajkumar for
Mr.S.Sheik Thanveer Ahamed

For Respondent-1 : Mr.P.Kumaresan,
Additional Advocate General
assisted by Mr.T.Chezhiyan,
Additional Government Pleader.

For Respondent-2 : Mr.K.Magesh,
Standing Counsel.

For Respondent-3 : Mr.T.J.Lakshmipathy

J U D G M E N T

[JUDGMENT OF THE COURT WAS DELIVERED

BY S.M.SUBRAMANIAM, J.]

The writ petitioner is the appellant before us.

2. The writ petition was instituted challenging the Government Order issued in G.O.(D) No.19, Municipal Administration and Water Supply Department, dated 18.01.2005, granting relaxation of Service Rules relating to promotion in favour of the third respondent-Mr.T.Gnanavel, enabling him to get promoted to the post of Assistant Engineer with effect from 14.04.1997 notionally and monetary benefits from 26.10.1998. The



Writ Court dismissed the writ petition.

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3. Mr.K.Rajkumar, learned counsel appearing on behalf of the appellant, would submit that at every stage of promotion either Rules relating to promotion are relaxed or promotions are granted in violation of the existing Rules in favour of the third respondent. On several occasions, the third respondent could secure higher position by depriving the promotional opportunities of many other eligible employees working in Coimbatore Corporation.

4. The Government Order under challenge issued in G.O.(D) No.19, Municipal Administration and Water Supply Department, dated 18.01.2005, would reveal that the third respondent was granted relaxation of educational qualification and experience as contemplated under the Rules.

5. Mr.P.Kumaresan, learned Additional Advocate General, appearing on behalf of the first respondent, would submit that no doubt certain relaxations are granted. But, it was granted in order to bring parity amongst the employees promoted from Town Planning Department and



form Engineering Department.

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6. Mr.T.J.Lakshmipathy, learned counsel appearing on behalf of the third respondent, would submit that promotions were granted considering the grievance of the third respondent and therefore, there is no infirmity as such.

7. Perusal of the Government Order impugned in G.O.(D) No.19, Municipal Administration and Water Supply Department, dated 18.01.2005, would show that on several occasions, the Coimbatore Corporation has submitted proposals to grant promotion in violation of the Rules in force. The Government also, without considering the Rules and not considering the grievances of other employees, passed orders in favour of the third respondent. The Government Order impugned itself is sufficient to form an opinion that concessions are given to the third respondent on extraneous considerations, affecting the service rights of other employees serving in Coimbatore Corporation.



8. We are not inclined to adjudicate each and every promotion and the manner in which the third respondent was promoted to various posts. Resolutions after resolutions passed by the Corporation would indicate that the plight and opportunity of other employees are not taken into consideration. Any kind of such favouritism by the Corporation and passing resolutions would not only offend the provisions of the Rules, but would result in infringement of service rights of several other employees, who all are aspiring to secure promotion as per the Rules and in the order of their seniority.

9. Mr.P.Kumaresan, learned Additional Advocate General, appearing on behalf of the first respondent, would submit that such concessions are granted to the appellant also. If so, all such irregularities and illegalities are to be looked into and corrections are to be made in order to protect the services of all other employees working in Coimbatore Corporation.



10. Equal opportunity in promotion is the constitutional mandate. All employees eligible are to be considered while preparing the panel for promotion. Promotions are to be granted scrupulously by following the Rules as contemplated. Therefore, any relaxation of Rule, is unacceptable.

11. The power of relaxation is conferred to the Government as an exception. Rules are to be followed. Relaxations are to be granted, if there is any gross injustice noticed affecting service rights of an individual or group of persons. The power of relaxation cannot be exercised by the Government in routine manner.

12. Relaxation of Rule, being an exception, is to be exercised in exceptional circumstances and not to favour any employee in the matter of promotion.

13. In the present case, the narration of facts in the impugned G.O.(D) No.19, Municipal Administration and Water Supply Department,



dated 18.01.2005, would reveal that several irregularities and illegalities are committed by Coimbatore Corporation by passing number of Resolutions and such Resolutions are taken into consideration and orders are passed either relaxing the Rules or amending the Rules in favour of few individuals. Such a procedure adopted by the Government is in violation of service jurisprudence. The Authorities responsible and accountable, are liable to be prosecuted in the manner known to law.

14. In view of several irregularities and illegalities noticed in granting relaxation in favour of the third respondent, the impugned order is liable to be set aside. Accordingly, we are inclined to set aside the writ order dated 19.04.2012 passed in WP No.4704 of 2005 and the impugned order passed by the Government in G.O.(D) No.19, Municipal Administration and Water Supply Department, dated 18.01.2005. Consequently, the respondents 1 and 2 are directed to scrutinise the files relating to grant of relaxation of Service Rules, amendments to the Rules and promotions granted to the appellant and the third respondent and accordingly, pass appropriate orders, granting equal opportunity of promotion and other service benefits to all the employees working in Coimbatore Corporation.



15. During the course of scrutinisation of files, if illegalities and irregularities are found, appropriate actions are to be initiated against the officials concerned, who have committed such irregularities and illegalities under the relevant Service Rules and under the relevant Laws. The said exercise is directed to be completed, within a period of four months from the date of receipt of a copy of this order.

16. With the above directions, the present Writ Appeal stands allowed. However, there shall be no order as to costs.

(S.M.SUBRAMANIAM,J.) (C.KUMARAPPAN,J.)

23-07-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
Svn



To

1. The Secretary to the Government,
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Municipal Administration and Water Supply
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Fort St. George,
Chennai-600 009.

2. The Commissioner,
Coimbatore City Municipal Corporation,
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