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W.P.No.40324 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.40324 of 2016

and

W.M.P.No.34400 of 2016

- 1.D.D.Pandian (Deceased)
- 2.V.Rani
- 3.D.P.Manimozhi
- 4.P.Bakkiyalakshmi

(P2 to P4 are substituted as LR's of deceased P1, as per order dated 01.04.2024 in WMP.7475/2024 in WP.40324/2016 by RKMJ)

... Petitioners

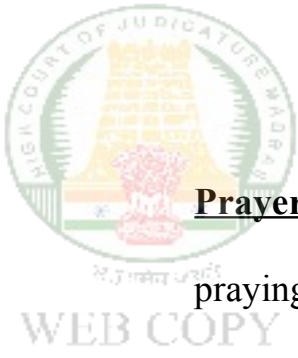
Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai-600 009.

- 2.The Commissioner,
Salem Municipality,
Salem.

(R2- Suo Motu Impleaded as per order dated 01.04.2024 in WP.40324/2016 by RKMJ)

...Respondents



W.P.No.40324 of 2016

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records relating to the order passed by the respondent in Letter No.22693/Ma.Na-5/2014-6 dated 26.02.2015 which was served on the petitioner on 02.03.2015 through the Commissioner of Corporation, Salem and quash the same thereby direct the respondent to give notional promotion to the petitioner as Junior Assistant from 27.05.1985 and pay all attended service and monetary benefit with interest.

For Petitioner : M/s.A.R.Nixon
For Respondents :
(for R1) :M/s.V.Jeevagiridharan, AGP
(for R2) : No appearance

ORDER

This Writ Petition is filed to quash the order passed by the 1st respondent in Letter No.22693/Ma.Na-5/2014-6 dated 26.02.2015 which was served on the petitioner on 02.03.2015 through the Commissioner of Corporation, Salem and quash the same and thereby direct the respondents to give notional promotion to the petitioner as Junior Assistant from 27.05.1985 and pay all attendant service and monetary benefit with interest.



2. The petitioner's contention is that he had joined the services of the Salem Municipality, which is now upgraded as a Corporation on 27.07.1976, as an Urban Malaria Head Mazdoor. The petitioner had retired from service on 30.11.2012 after completing 35 years of unblemished service in the 3rd respondent department.

3. The petitioner would submit that he became a Head Mazdoor on 17.07.1979. He had passed the SSLC Examination. Hence, he desired to become a Junior Assistant. Thereafter, the petitioner appeared for the TNPSC Examination in the year 1982 for the Group IV Examination and succeeded in the same. Once the petitioner had qualified to be appointed as a Junior Assistant, he made a representation to the 2nd respondent to promote him as a Junior Assistant. The 2nd respondent by its order dated 27.05.1985 had rejected the claim of the petitioner by stating that only Tax Collectors and Record Clerks can be promoted as Junior Assistant. Challenging the said order, the petitioner had appealed before the Director of Municipal Administration, Chepauk, Chennai. The said appeal was rejected on 29.05.1986 stating that since the petitioner was working as Mazdoor in the Health Section, he cannot be transferred to the General Section. Aggrieved by the same, the petitioner had filed W.P.No.12567 of 1987, seeking to re-consider the request of the petitioner for appointment as



a Junior Assistant. This Court by its order dated 08.11.1996 had passed the following orders:-

"It is not the contention of the Respondent that there are no vacancy for the post in the Salem Municipality. But their only contentions is that the petitioner is serving in one section i.e. Health Section and therefore, he cannot be absorbed in the General Section. I do not find any such restriction. Therefore, I am of the view that the rejection of the request of the petitioner is unjustified. Therefore, I direct the Respondents to reconsider the claim of the petitioner for appointment as Junior Assistant in any of the services in the present Salem Corporation. Orders should be passed after such consideration within three months from the date of receipt of copy of this Order. The Writ petition is ordered in the above terms."

4. After receipt of the certified copy of the above order, the petitioner had made a representation to the Commissioner of Salem Corporation on 03.03.1997 seeking the implementation of the order passed by this Court in W.P.No.12567 of 1987. However, there was no response from the respondent. Once again, on 03.05.2005, the petitioner had made a representation to Commissioner of Salem Municipal Corporation and to the



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Assistant Commissioner Division-II, Salem Municipality seeking to give a Junior Assistant post or at least a Sanitary Supervisor post. To this, the respondents had not taken any action and kept the representation pending under one pretext or the other.

5. Thereafter, the petitioner had filed another W.P.No.24208 of 2014, seeking to direct the respondents to give notional promotion to the petitioner as Junior Assistant from 27.05.1985 and to pay all attended benefits passed in W.P.No.12567 of 1987 and consequently to revise the pensionary benefits based on the representation dated 13.05.2005. This Court by order dated 07.10.2014 had directed the 1st respondent to consider the representation of the petitioner dated 13.05.2005 and pass appropriate orders within a period of 12 weeks from the date of receipt of a copy of this order. The petitioner was also directed to submit a copy of the said representation within a period of 4 weeks from the date of receipt of a copy of this order.

6. The 1st respondent had reconsidered the representation and by its impugned order dated 26.02.2015 rejected the request of the petitioner stating that he did not possess the requisite educational qualifications necessary for being appointed as a Junior Assistant.



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7. Heard the counsels on either side.

8. Under the impugned order, the 1st respondent has stated that in order to be appointed as a Junior Assistant, the petitioner should possess a minimum qualification of Higher Secondary i.e; the 12th standard. Admittedly, the petitioner has only passed the SSLC examination. Therefore, it is clear that he does not possess the necessary educational qualification. Therefore, there appears to be no infirmity in the order passed by the 1st respondent and I see no reason to interfere with the same. Therefore, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

10.06.2024

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No



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P.T. ASHA. J.,

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