



WEB COPY



WA No.2172 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

WA No.2172 of 2022

G.Sundararajan : Appellant

Vs

The Commissioner
Greater Chennai Corporation
Rippon Building
Chennai - 600 003

: Respondent

PRAYER: Writ Appeal filed against the order of the learned Single Judge in W.P.No.30922/2019 dated 06-06-2022 and direct the respondent to consider the promotion of the appellant as Typist from 13-12-2010 along with service and monetary benefits.

For the Appellant :Mr.A.Muruganandam

For the Respondents :Mrs.P.T.Ramadevi,
Standing Counsel,
Chennai Corporation



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JUDGMENT

(Made by *D.KRISHNAKUMAR, J.*)

This Writ Appeal has been filed by the appellant against the order of the learned Single Judge in W.P. No.30922/2019 dated 06.06.2022 and to direct the respondent to consider the promotion of the appellant as Typist from 13-12-2010 along with service and monetary benefits.

2.Brief facts of the case:

The appellant was appointed as Sweeper at the respondent Corporation on 03.07.2008. Prior to his appointment, promotions were given from the feeder category to the post of Typist by taking 01.10.2006 as the crucial date by making amendment in the by-laws framed in this regard by the Corporation Council. Subsequently, in the year 2009 once again bye-laws got amended under which the amending provision made it clear that the approved probationers from all lower categories can be promoted, but the candidate should have completed two years of qualifying service. Again, third time rule got amended during 2010 insisting two years of service in the



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feeder category of Record Clerk. Thereafter, fourth time once again the Rule got amended on 27.12.2013 under which all lower categories can be considered subject to having completed two years qualifying service. Only by virtue of this amendment, since the appellant had already completed two years in the Sweeper post, which was also considered to be one of the feeder categories, he has been given promotion to the post of Typist in 2014 and then pursuant to proceedings dated 29.01.2015, he has been promoted as Assistant in the year 2016. After getting promotion, the appellant has sought for retrospective promotion to the post of Typist with effect from 2009 on par with others as per the earlier amended Rules. The said request was rejected by the Corporation by order dated 11.01.2018. Challenging the same, the appellant has filed the instant writ petition. The writ Court, by order dated 06.06.2022, has dismissed the writ petition. Hence, the appellant has filed the present intra court appeal.

3. Learned counsel for the appellant submits that though the appellant has sufficient qualification for promotion as Typist as per the Bye Law, he has not been considered for promotion and further, the Corporation has



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delayed the promotion of the appellant as Typist for five years, which led to loss of monetary and service benefits. This crucial aspect has not considered by the learned Single Judge and therefore, he prays for setting aside the order of writ court and allow the writ appeal.

4. Per contra, Learned Standing Counsel for the respondent Corporation submits that only as per the amendment to the Rule made during 2013, the appellant became eligible for promotion and accordingly he was promoted as Typist from the post of Sweeper in 2014 and then as Assistant in the year 2016. He further submits that those amendments were not challenged by the appellant before the respondent Corporation. Therefore, the claim of the appellant that he must be given notional promotion with effect from 13.12.2010 with service and monetary benefits is unsustainable and seeks for dismissal of the writ appeal.

5. Heard the parties and perused the materials available on record.



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6. The learned Single Judge has anxiously considered the said submission of the appellant and came to the conclusion that the appellant has not challenged the earlier amendments and has only challenged he impugned rejection order. As the earlier amendments have not been questioned, the appellant cannot seek for any retrospective promotion based on the amendment made either in the year 2009 or in 2010, under which the appellant admittedly is not entitled or eligible to the post of Assistant.

7. By virtue of the amendment in the year 2013, the appellant became eligible for promotion and accordingly he was promoted as Typist from the post of Sweeper in 2014 and then as Assistant in the year 2016 in the respondent Corporation and now he sought for the restrospective promotion with effect from 2010. The said submission cannot be accepted for the reason that the appellant has not sought for promotion on the earlier occasions either in year 2009 or in the year 2010 and he slept over the matter for all these years and only after getting promotion in the year 2016, pursuant to the fourth amendment of 2013, now he seeks for notional promotion right from 2010, which he is not entitled to as he did not raise



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any voice for promotion during the earlier amendments both in the year 2009 and in the year 2010. Further, he has not challenged the earlier amendments seeking for retrospective effect. On these grounds, we are not inclined to accept the contention of the appellant. Hence, the order of the writ court dated 06.06.2022 is perfectly valid. Consequently, the writ appeal stands dismissed. There shall be no order as to costs.

[D.K.K., J.] [K.B., J.]
05.06.2024

Index : Yes/No
Neutral Citation : Yes/No
mrn

To

The Commissioner
Greater Chennai Corporation
Rippon Building
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D.KRISHNAKUMAR, J.
and
K.KUMARESH BABU, J.

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