



WP.No.23813 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.03.2024

Delivered on : 2.04.2024

CORAM

THE HON'BLE DR.JUSTICE **D.NAGARJUN**

W.P.No.23813 of 2014

and

M.P.No.1 of 2014

- 1.D.Varalakshmi
2. K.Nagarajan
3. K.Mohanbabu
4. M.Amulu
5. G.Senthil Kumar
6. C.Saravana Perumal
7. R.Raji
8. J.Vinayaga Moorthy
9. E.Nagarajan

.. Petitioners

Vs.

1. The Government of Tamil Nadu
Rep. by its Secretary to Government
Municipal Administration & Water
Supply Department, Fort St.George,
Chennai - 600 009.
2. The Principal Secretary and Commissioner
Corporation of Chennai,
Rippon Buildings,
Chennai - 600 003.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Certiorarified Mandamus to call for the records of G.O.Ms.No.197 Municipal Administration and Water Supply Department dated 15.04.2013 and quash Para 5(iv) of G.O.Ms.No.197 Municipal Administration and Water Supply Department and further direct the respondent to consider the petitioners' names for appointment to the post of Junior Assistant after completion of satisfactory service by reckoning their date of appointment in Corporation of Chennai as 25.10.2011.

For Petitioners : Mr.K.S.Viswanathan
Senior Advocate

For Respondent No.1 : Mr.R.V.Dinesh Raj Kumar
Additional Government Pleader

For Respondent No.2 : Mr.S.Gopinathan
Standing Counsel

ORDER

This writ petition has been filed seeking for issuance of Certiorarified Mandamus to call for the records of G.O.Ms.No.197 Municipal Administration and Water Supply Department dated 15.04.2013, quash Para 5(iv) of G.O.Ms.No.197 Municipal Administration and Water Supply Department and further direct the respondents to consider the petitioners' names for



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appointment to the post of Junior Assistant after completion of satisfactory service by reckoning their date of appointment in Corporation of Chennai as 25.10.2011.

2. The petitioners were initially working as Panchayat Secretaries in the respective Village Panchayats, which are situated in the outskirts of Chennai. In the year 2011-2012, the Government had taken a policy decision to expand the limits of Chennai Corporation by taking over the Town Panchayat Municipalities and Village Panchayats, which are situated adjacent to the existing limit of Chennai Corporation thereby the Panchayat Secretaries, who were working in the respective village Panchayats, became a part of Chennai Corporation. The petitioners, who were working as Panchayats Secretaries, were also absorbed into the 2nd respondent - Chennai Corporation. The details of their original appointment as Panchayat Secretaries in various Village Panchayat are extracted as hereunder:

Name	Date of Appointment	Name of Village Panchayat
1. D.Varalakshmi	01.10.1998	Nolambur
2. K.Nagarajan	01.11.2001	Karapakkam
3. K.Mohanbabu	01.04.1997	Puthagram
4. M.Amulu	01.08.2002	Soorpattu
5. G.Senthil Kumar	01.08.2006	Kathirvedu



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6. C.Saravana Perumal	02.12.2002	Edayamchavadi
7. R.Raji	05.02.2010	Mathur
8. J.Vinayaga Murthy	01.08.2007	Sadayankuppam
9. E.Nagarajan	13.02.2008	Kadappakkam

3. After expansion, when the issue of absorbing the employees of the erstwhile village panchayats arose, initially, the second respondent decided to send back the Panchayat Secretaries included the petitioners, who were working in the erstwhile Village Panchayats, to their parent department. However, all the petitioners exercised their option to work in the 2nd respondent - Corporation with effect from 25.10.2011. But since there was no post of Panchayat Secretary available in the 2nd respondent - Corporation, the issue relating to absorption of the petitioners in the 2nd respondent - Corporation was pending.

4. In the meanwhile, similarly placed persons like the petitioners filed W.P.Nos.18301 to 18305 of 2012 seeking for pay protection, in second respondent/corporation. The said writ petitions were allowed on 17.08.2012 directing the respondent No.2 to permit them to work in the Chennai Corporation with continuity of service and pay protection.



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5. Even after passing of the orders by this Court dated 17.8.2012, the arrears of salary was not granted to some of the petitioners on the ground that their names did not find a place in the order dated 17.8.2012 in W.P.Nos. 18301 to 18305 of 2012. Accordingly petitioners 2 and 6 to 9, whose names did not find a place in the common order dated 17.8.2012, have filed Writ Petition in W.P.No.33558 of 2013 before this Court and it was disposed of on 10.12.2013 directing the respondents to consider their representation dated 29.4.2013 within a time frame. Pursuant to that, they were also paid salary for the period between 13.03.2012 and 20.09.2012. But, no formal order regarding regularization of the services was issued.

6. In the meanwhile, G.O.Ms.No.197 Municipal Administration and Water Supply Department dated 15.04.2013 was issued absorbing the petitioners, who worked as Panchayat Secretaries in the respective Village Panchayats, in the ex-cadre post, as there was no post called as Panchayat Secretary. It was also mentioned in the said Government Order that the said ex-cadre post would lapse whenever an individual gets promotion or retires from service or is appointed by way of transfer or death. It was further



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mentioned in the said Government Order that three years' training would be given to them in the record room of the Chennai Corporation to get conversant with the work and that after completion of the training, as per the educational qualification, they would be appointed in the Corporation Subordinate service in the post of Record Clerk.

7. The petitioners are aggrieved by para 5(iv) of the said G.O.Ms.No. 197 dated 15.04.2013, which speaks that after completion of three years service, they will be promoted as Record Clerk inasmuch as the Panchayat Secretary who work in Village Panchayat after completion of satisfactory service will be appointed as Junior Assistant in Rural Development Department subject to condition that they should possess minimum educational qualification viz. SSLC pass. Therefore, the petitioners have come forward with the writ petition seeking a direction as aforesaid.

8. The respondent No.2 filed counter affidavit stating that as per G.O.Ms.No.197 dated 15.04.2013 19 Panchayat Secretaries who worked in nearby E.W. Panchayats before expansion of Chennai Corporation Limit, have been absorbed with Corporation of Chennai with the following conditions:



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- (i) In the event of absorption to create 19 Body Constituted Posts with their existing scale of pay.
- (ii) The posts created for this purpose will be lapsed consequent on their retirement, promotion and transfer to other posts etc.
- (iii) They should be given training for the minimum period of three years in Record Section regarding Establishment subjects.
- (iv) On completion of three years training period they may be promoted as Record Clerk based on their educational qualification.

9. The counter affidavit further states that out of 19 Panchayat Secretaries, 14 persons had only joined in Corporation service. Out of 14 persons, 1 person had retired from service on superannuation on 30.04.2013 and another person had absented himself from duty unauthorisedly. Therefore, at present, 12 Panchayat Secretaries are working in the Corporation of Chennai and out of said 12 persons, 9 persons have jointly filed the writ



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petition. It is mentioned further that the scale of pay attached to the post of Panchayat Secretary is lower than that of minimum scale of pay at Rs.4800-10000 + Grade Pay Rs.1400/- and the next avenue of promotion to the petitioners fixed as Record Clerk is reasonable and not violative of Articles 14 and 16 of the Constitution of India.

10. Heard both sides and perused the records.

11. The petitioners started working in the 2nd respondent Corporation with effect from 24.10.2011. Thereby the 2nd respondent Corporation was expected to settle the service conditions of the petitioners, however the respondent has kept their services pending. Aggrieved by the same, some of the persons similarly situated like the petitioners filed W.P.Nos.18301 & 18305 of 2012 wherein this Court had directed 2nd respondent Corporation to permit the petitioners therein to work in Chennai Corporation with continuity of service and pay protection etc. The benefit of the said order was also extended to the petitioners herein and they were also permitted to remain in Chennai Corporation pursuant to the order dated 11.09.2012 and the petitioners were also allowed to work in their respective zone. However, the



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arrears of salaries were not granted to some of the petitioners, which necessitated them to file one more writ petition in W.P. NO. 33558 of 2013 and the said writ petition was allowed and the respondents therein were directed to regularise the services of the petitioners from the date of initial appointment and to pay arrears of salary. Later on, G.O.Ms.No.197 dated 15.02.2013 was issued stating that the next avenue of promotion to the petitioners will be Record Clerk instead of Junior Assistant. In the said G.O., it is specifically mentioned that the petitioners and others will be given training for a period of three years and thereafter they will be absorbed as Record Clerk in the respondent No.2 Corporation. Resultantly, even though respondent No.2 Corporation has extracted work from the petitioners with effect from 24.10.2011, as per G.O.Ms.No.197, their service will be regularized as Record Clerk, three years from the date of issuance G.O.Ms.No.197, which means their services will be regularized as per G.O.Ms.No.197 from 2016 even though they joined the service of the 2nd respondent Corporation in the year 2011.

12. The main grievance of the petitioners is that if they had been working as Panchayat Secretaries, in which post they were initially appointed,



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the next avenue of promotion for them would have been the Junior Assistant and in due course, they would be promoted as Assistant and thereafter as Development Officer. However, on account of their services being absorbed into the 2nd respondent Corporation with effect from 24.10.2011, the impugned G.O was issued on 15.07.2013 stating that after three years of service, the petitioners would be absorbed as Record Clerk, which is erroneous and takes away the rights of the petitioners.

13. No reasonable explanation has been given either in the G.O or in the counter affidavit as to why the Government has not issued orders absorbing the petitioners as record clerks with effect from the date of their initial joining i.e, 24.10.2011 or atleast on the date of issuance of G.O.Ms.No.197 dated 15.04.2013. There is no rationale behind asking the petitioners to undergo training for a period of three years. In fact, by the time the Government Order was issued, the petitioners and others had already been working for two years in the 2nd respondent Corporation and there is no rule in any department more particularly the respondent Corporation that prior to initial appointment, a person required to undergo training for a period of three years.



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14. Further, it is to be noted that prior to joining the service of the 2nd respondent Corporation, on 24.10.2011, the petitioners had already been working, and all the petitioners joined as Pachayat Secretaries during the years from 1998 to 2010 on various dates. That means some of them had put in more than 13 years of service even before they joined the 2nd respondent Corporation. Therefore, when such is the status of experience they possess prior to joining second respondent corporation not absorbing the services of the petitioners with effect from 24.10.2011 and again issuing G.O.Ms.No.197 incorporating Clause (iv) to undergo training for a period of three years is arbitrary and without any rhyme or reason. The issuance of G.O.Ms.No.197 would ultimately result in asking the petitioners to undergo training for a period of more than five years before they would be absorbed as Record Clerks. Therefore, Clause 5(iv) in G.O.Ms.No.197 is arbitrary and requires to be interfered with.

15. Further according to impugned G.O. the petitioners will be absorbed as Record Clerks. The next avenue of promotion from the cadre of Record Clerk is Junior Assistant and the cadre of Record Clerk is slightly



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higher than the post of Panchayat Secretary. It is submitted by the learned counsel for the petitioner that after working for a period of five years, they should be atleast absorbed as Junior Assistants and not as Record Clerks. It is also submitted that similar persons who were absorbed into Tirunelveli and Tuticorin Corporations were appointed as Junior Assistants. The submissions of the learned counsel for the petitioners are convincing. Having left the service as Panchayat Secretaries, having fought for so many years for their service conditions, after working in the second respondent corporation for so many years, asking them to join as Record Clerk is totally unjust.

16. Therefore, on perusal of the records, there are two options before this Court either to direct the respondents to absorb the petitioners as Junior Assistants instead of Record Clerks or to direct the respondents to absorb the petitioner as Record Clerks either from date of their joining on 24.10.2011 or from 15.02.2013 on which date G.O.Ms.No.197 was issued.

17. On a perusal of the prayer of this writ petition, it is seen that the petitioners sought for quashing of para 5 (IV) of G.O.Ms.No.197 which mandates that on completion of three years training, the petitioners may be



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promoted as Record Clerk subject to possession of basic Educational Qualifications. The petitioners are not seeking direction to the respondents to absorb them as Junior Assistants, thereby there cannot be a direction to the 2nd respondent to absorb the petitioners as Junior Assistants. However, as already observed, there is no reasoning for directing the petitioners to undergo training for a period of three years before absorbing them as Record Clerks. Considering their service as Panchayat Secretaries and that the training contemplated under G.O.Ms. No. 197 dated 15.12.2013 is only for understanding the nature of work and other aspects of the 2nd respondent Corporation considering their experience in the Corporation with effect from 24.02.2011 this Court is of the opinion that para 5(IV) of G.O.Ms.No.197 dated 15.04.2013 shall be quashed in so far as the condition to undergo three years training period for consideration to be promoted as Record Clerk based on their qualification is concerned. Accordingly, respondent Nos.1 and 2 and hereby directed to absorb the petitioners as Record Clerks with effect from the date of issuance of G.O.Ms.No.1997 dated 15.12.2013.

18. In the result, the writ petition is allowed in part and the mandatory requirement of training for a period of three years to absorb the petitioners as



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Record Clerks as stipulated in para 5(IV) of G.O.Ms.No.197 dated 15.04.2013

is hereby quashed. Consequently, respondent Nos.1 and 2 are directed to absorb the petitioners as Record Clerks with effect from the date of issuance G.O.Ms.No.197 dated 15.04.2013. Consequently connected miscellaneous petition is closed. No costs.

2.04.2024

Index : Yes/No

Neutral Citation :Yes/No

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To

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Rep. by its Secretary to Government
Municipal Administration & Water Supply Department
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Chennai - 600 009.
2. The Principal Secretary and Commissioner
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D.NAGARJUN, J.
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Pre-Delivery order made in

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and

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