



W.P.No.21058 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.21058 of 2024
and W.M.P.No.23009 of 2024

M.Kaleeswari

... Petitioner

-Vs-

1. State of Tamil Nadu,
represented by its Joint Secretary to Government,
Municipal and Water Supply Department,
Fort St.George, Secretariat,
Chennai 600 009.
2. The Director,
Directorate of Municipal Administration,
75, Urban Administrative Building,
Santhome High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai – 600 028.
3. The Regional Director of Municipal
Administration,
Chengalpattu @ Tambaram,
Tambaram,
Chennai 600 045.



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4. The Commissioner,
Nandhivaram Guduvancherry Municipality,
No.10, GST Road,
NandhivaramGuduvanchery,
Chennai 603 202
Chengalpattu District.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the first Respondent in Letter No.7571 / NP.3 / 2023 - 2 dated 04.01.2024 and the subsequent impugned order passed by third respondent in Na.Ka.No.1973/2017/A1 dated 26.03.2024 and to quash the same and consequently directing the respondents to pass orders for granting appointment to the petitioner to the post of Junior Assistant or Revenue Assistant in accordance with G.O.Ms.No.206, Municipal Administration and Water supply Department dated 02.11.1995 with all consequential and other attendant benefits.

For Petitioner : Mr.J.Jayamalan
For Respondents : Dr.T.Seenivasan
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 04.01.2024 and the order passed by the third respondent dated 26.03.2024, thereby rejected the request made by the petitioner seeking appointment to the post of Junior Assistant or Revenue



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Assistant in accordance with G.O.Ms.No.206, Municipal Administration and Water supply Department dated 02.11.1995.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner's father was employed as Sanitary Worker in Sayalkudi Town Panchayat, Ramanathapuram District. While he was in service, he died on 23.11.2013, leaving behind the petitioner as one of the legal heirs. The petitioner is qualified with B.Sc degree. Considering the request made by the petitioner, she was appointed to the post of Sanitary Worker with effect from 01.04.2015. She had joined in the said post and she is working till today. After having been joined, the petitioner made a representation citing G.O.Ms.No.206, Municipal Administration and Water Supply Department dated 02.11.1995 stating that she may be appointed to the post of Junior Assistant/Typist and the post of Sanitary Worker/Sweeper is not included in the said Government Order.

4. The learned counsel for the petitioner relied upon the Judgment



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of the Hon'ble Division Bench of this Court in W.A.No.778 of 2017 etc., dated 03.07.2018, in which the Hon'ble Division Bench of this Court held as follows:-

“ 5. The Writ Petitions were resisted by the respondents contending that in view of the G.O.Ms.No.206 Municipal Administration and Water Supply Department dated 02.11.1995, only the legal heirs of persons who have worked as Record Clerk, Office Assistant and Night Watchman can be considered for compassionate appointment as Junior Assistants, if they possess required educational qualification. Inasmuch as the deceased Government Servants were working as Sweepers which are non- provincialised posts, the legal heirs cannot claim compassionate appointment as Junior Assistants or any other equivalent posts. It is claimed that the legal heirs of persons who were working as Sweepers are not entitled for appointment as Junior Assistants/ Bill Collectors even though they are qualified for the said posts in view of the provisions of G.O.Ms.No.206, Municipal Administration and Water Supply Department dated 02.11.1995. The learned Single Judge who heard the Writ Petitions concluded that the classification made has no reasonable basis and in fact this Court in W.P.No.19932 of 2008 had held that the provisions of G.O.Ms.No.206 dated 02.11.1995 can only be taken as a guidance and it cannot be restricted to the non-provincialised posts which are mentioned in the said G.O.

.....

10. It is the further contention of the learned counsel that except the three categories mentioned in G.O.Ms.No.206 viz., Record Clerk, Office Assistant and Night Watchman, the children of employees working in other non-provincialised posts like Sweeper cannot be



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appointed in the provincialised posts of Junior Assistants, Bill Collectors or Typists which are required to be filled up through the Tamil Nadu Public Service Commission. He would further submit that the Tamil Nadu Public Service Commission has refused consent for appointment of children of non-provincialised employees working in the posts other than Record Clerks, Office Assistants and Night Watchmen to the provincialised posts like Junior Assistant, Bill Collector or Typist which are required to be filled up thorough the Tamil Nadu Public Service Commission.

11. Per contra Mr.M.Purushothaman, learned counsel appearing for the 1st respondent in both the Writ Appeals would contend that this Court had atleast in two cases viz., in W.P.Nos.19932 of 2008 and 29845 of 2011 held that the mentioning of the name of the posts in G.O.Ms.No.206 could only be taken as indicative and not exhaustive. If the dependents of non- provincialised employees holding the post of Office Assistant or Night Watchman could be appointed in the provincialised posts viz., Junior Assistant or typist or Bill Collector, we see no reason to deny such benefits to the dependent of other employees holding such non- provincialised posts like that of Sweeper, even though they are qualified, this would in fact amount to discrimination.

12. We are in agreement with the views of the learned Single Judge as expressed in Writ Petitions referred to supra to the effect that the mentioning of the names of the posts is only indicative and not exhaustive. We therefore, see no reason to interfere with the order of the learned Single Judges particularly when the appellants themselves have conceded the fact that there were vacancies in the posts of Junior Assistants and Bill Collectors on the dates when the 1st respondent in each of the appeals were appointed as Sweepers. Once the fact that the 1st respondent in each of the appeals is qualified



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to be appointed as Junior Assistant or as a Bill Collector, we don't see any reason as to why they should be denied the post that will commensurate with their qualification."

5. The petitioner submitted a representation to post her in the post of Junior Assistant or Revenue Assistant. The petitioner was initially appointed as Sanitary Worker with effect from 01.04.2015. From the post of Sanitary Worker, the Rule does not permit to appoint the petitioner to the post of Junior Assistant/Revenue Assistant. That apart, the petitioner after having been accepted the appointment order and joined in the post of Sanitary Worker, now based on G.O.Ms.No.206, Municipal Administration and Water supply Department dated 02.11.1995, she cannot claim any benefit. That apart, the Hon'ble Division Bench of this Court passed an order as early as on 03.07.2019. After a period of five years from the date of Judgment, the petitioner made a claim.

6. Therefore, the claim made by the petitioner was rightly rejected by the respondents and this Court finds no infirmity or illegality in the orders passed by the first and third respondents and the writ petition is devoid of merits and is liable to be dismissed.



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7. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

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Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J.

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To

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Chennai 600 009.
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