



WEB COPY



W.A. No.1924 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2024

CORAM

THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ

W.A. No.1924 of 2023

S. Sivakumar

Appellant

v

1 The Commissioner
Municipal Administration
No.3, MRC Nagar
Raja Annamalai Puram
Chennai 600 028

2 The Commissioner
Chidambaram Municipality
Chidambaram 608 001

Respondents

Writ Appeal filed under Clause 15 of the Letters Patent challenging the
order dated 20.06.2022 passed in W.P. No.3 of 2022.

For appellant Mr. S. Shanmugaraj
for M/s. Chennai law Firm

For R1 Mr. Abishek Murthy
Government Advocate

For R2 Mrs. S. Anitha

- - - - -



WEB COPY



W.A. No.1924 of 2023

JUDGMENT

(delivered by R. MAHADEVAN, J.)

The order dated 20.06.2022 passed by a learned Judge in W.P. No. 3 of 2022 is under challenge in this writ appeal.

2 At the outset, it is pertinent to state that this is the fifth round of litigation. While the first round was before the Tamil Nadu Administrative Tribunal, the remaining four are before this Court.

3 The facts giving rise to the institution of this writ appeal could be succinctly stated thus:

3.1 The appellant joined the second respondent Municipality on 01.04.1989 as Junior Assistant-cum-Typist under Nominal Muster Roll (NMR) and continues to work as such till date. But, according to the respondents, he was in service only till 31.12.1994 and again, he continued to work from January 1995 and subsequently, he worked for the second respondent Municipality under a private contractor.



W.A. No.1924 of 2023

WEB COPY

3.2 Seemingly, the appellant, along with others, as well, individually, had filed cases seeking regularisation of his service and it is not necessary to make this order prolix by giving the details of those cases and it would suffice to state that his request for regularisation was turned down *vide* final notice dated 29.11.2019 issued by the second respondent. One of the reasons assigned by the second respondent Municipality for rejecting the appellant's request was that G.O.(Ms.) No.125, Municipal Administration and Water Supply Department dated 27.05.2019 cannot enure to his benefit, inasmuch as, as on 01.10.1996, he was not at all in service and also, he was not in service continuously as a daily rated employee under the second respondent Municipality.

3.3 The said final notice was called into question by the appellant by filing W.P. No.3 of 2022. In the said writ petition, the appellant further sought a direction to the respondents to appoint him in any regular vacancy and regularise his services.

3.4 The main ground urged by the appellant before the learned Judge



W.A. No.1924 of 2023

was that notwithstanding the directions given by this Court *vide* orders dated 06.08.2010 and 07.08.2019 in W.P. No.13959 of 2008 and 10424 of 2011, respectively, to consider his case sympathetically, his request for regularisation has been rejected.

3.5 *Per contra*, the main stance taken by the respondents before the learned Judge was that the appellant was not working as an NMR as on 01.10.1996 and hence, the benefit of G.O. (Ms.) No.125, *supra*, cannot be extended to him. It was further contended by the respondents that the appellant was not employed by the second respondent Municipality directly and he was only an outsourced employee who was appointed by a private contractor.

3.6 The learned Judge, noticing, *inter alia*, that the appellant has not produced any material to prove that he had worked for a long period, as claimed by him, in the second respondent Municipality and that he was working only under a private contractor, dismissed the writ petition filed by the appellant.

3.7 Thereagainst, this writ appeal has been preferred.

4 Heard both sides and perused the materials available on record.



W.A. No.1924 of 2023

WEB COPY 5

While it is the stand of the appellant that he joined the second respondent Municipality on 01.04.1989 and worked for nearly three decades and continues to be in service, it is the candid stand of the respondents that as on 01.10.1996, the appellant was not in service to avail of the benefit of G.O. (Ms) No.125, *supra*. Be it noted, no shred of material has been placed by the appellant to show that he was on service as on 01.10.1996.

6 As regards the stance of the appellant that notwithstanding the earlier orders of this Court, he has not been regularised, be it noted, in none of the earlier orders, there has been a positive direction by this Court to the effect that the appellant must be regularised in service. By the said orders, the respondents were merely directed to consider and pass orders on the appellant's representations. At the most, in W.P. No.10424 of 2011, *vide* order dated 07.08.2019, it was directed that the case of the appellant be considered on humanitarian ground and orders passed accordingly. Such directions issued by this Court, from time to time, in the earlier rounds of litigation cannot be read into by the appellant to his advantage.



W.A. No.1924 of 2023

7 The learned Judge, while dismissing the writ petition, has garnered

support from the judgment of the Supreme Court in **Secretary to Government,**

School Education Department v R.Govindasamy [(2014) 4 SCC 769],

wherein, the law laid down by the Supreme Court in **State of Rajasthan v**

Daya Lal [(2011) 2 SCC 429] that regularisation cannot be sought even if a

daily wager had put in long years of service and that sentiment and sympathy

cannot be valid grounds for regularisation of service, was quoted with approval.

We are in agreement with the reliance placed by the learned Judge on the

aforesaid two judgments. As per the directions of this Court, the request of the

appellant seeking regularisation has been considered based on the materials and

eventually, turned down by the respondents more than once by considering his

representations in the light of G.O. (Ms.) No.125, *supra*, which cannot be found

fault with by any stretch of imagination.

8 In such perspective of the matter, we find no ground to interfere with the order impugned in this writ appeal.



W.A. No.1924 of 2023

WEB COPY In the result, this writ appeal fails and is accordingly dismissed, sans costs.

cad

[R.M.D, J.] [M.S.Q, J.]
23.04.2024



WEB COPY



W.A. No.1924 of 2023

R. MAHADEVAN, J.

and

MOHAMMED SHAFFIQ, J.

cad

To

- 1 The Commissioner
Municipal Administration
No.3, MRC Nagar
Raja Annamalai Puram
Chennai 600 028
- 2 The Commissioner
Chidambaram Municipality
Chidambaram 608 001

W.A. No.1924 of 2023

23.04.2024