



WEB COPY



W.P.No.32805 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2024

CORAM:

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

W.P.No.32805 of 2022
and W.M.P.No.32199 of 2022

Rajaram

...Petitioner

-Vs-

1. The Municipal Commissioner
Panruti Municipality,
Panruti, Panruti Taluk,
Cuddalore District.

2. The Regional Director of Municipal Administration,
Office of the Directorate of Municipal Administration,
1, GST Road, Jeeva Commercial Complex,
West Tambaram, Chengalput – 600 045.

3. The Commissioner of Municipal Administration,
Municipal Administration,
75, Santhome High Road,
M.R.C.Nagar,
Raja Annamalaipuram,
Chennai – 600 028.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the issue of the order in Proceedings bearing Na.Ka.No.298/2022/H1 by the Municipal Commissioner, Panruti



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Municipality, Panruti, Panruti Taluk, Cuddalore District, the first respondent herein dated 23.09.2022 and quash the same and direct the respondents to extend an appointment to the petitioner in connection with his mother's voluntary retirement scheme under medical disability.

For Petitioner : Mr.D.Ashok Kumar
For Respondents
For R1 : Mr.P.Srinivas
Standing Counsel
For R2 & R3 : Mr.S.Arumugam
Government Advocate.

ORDER

This writ petition has been filed challenging the order passed by the fourth respondent dated 23.09.2022, thereby rejecting the request made by the petitioner for compassionate appointment.

2. The petitioner's mother had been joined in the third respondent municipality as Sanitary worker in the year 1999. Her service was confirmed on permanent basis in the year 2006 by the proceeding dated 01.03.2006, by the first respondent. Her mother had developed an illness and on 14.10.2018, she had expressed her disability to work as a Sanitary worker and sought for voluntary retirement under the Voluntary Retirement Scheme. She also asked for appointment by surrendering her



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employment. Considering the said request, she was referred to Medical Board, the Government Medical Board, Cuddalore, to conduct medical examination. On medical examination, it was found that the petitioner's mother was unfit for the job of Sanitary worker by the certificate dated 23.10.2019. In accordance with the medical certificate, the petitioner's mother made another request to relieve her on medical invalidation ground. Therefore, the first respondent had sent proposal to the second respondent. However, it was returned by the proceedings dated 18.12.2019 for compliance and the same has to be sent along with no objection certificate and undertaking letter from the petitioner's mother.

3. Thereafter, when the petitioner's mother approached the first respondent for relieving her from service and the first respondent had claimed that since there were certain audit objections, she cannot be relieved. As per the audit objections, the first respondent claimed a sum of Rs.1,30,512/- as payable by the petitioner's mother. Unless and until the said amount is paid on receipt of the demand from the first respondent, her retirement can be considered.



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4. Further the petitioner's mother had settled the said amount on 29.12.2020. Thereafter, a proposal for relieving her from duty was sent to the respondents 2 & 3 and she was relieved from her service by the communication dated 26.02.2021 by the second respondent. Similarly, the third respondent also by its communication dated 23.03.2021, ordered that the petitioner's mother can be relieved from her service. Only thereafter she was relieved from service on 31.12.2021.

5. Thereafter, the petitioner made application for appointment on compassionate ground on 06.01.2022. However, it was rejected on the ground that his mother was retired from her service after completion of 54 years and 7 months. As per the government order, the compassionate ground appointment can not be made to the government servants after completion of 53 years on the ground of medical invalidation.

6. The learned counsel appearing for the petitioner submitted that the petitioner's mother made request even as early as on 14.10.2018 itself. However, she was directed to appear before the medical board only on 23.10.2019. Even after medical board certified that she was unfit for



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the post of Sanitary worker, the respondents failed to relieve her from duty. Therefore, the government order in G.O.(Ms.)No.18 Labour and Employment (Q1) Department dated 23.01.2020, is not applicable to the case of the petitioner.

7. Heard the learned counsel appearing on either side and perused the material placed before this Court.

8. On perusal of records revealed that the petitioner' mother made request on 14.10.2018. However, there is no proof that the said request was received by the respondents. Further she was referred before the medical board on 23.10.2019 and she was declared as unfit for the post of Sanitary worker. Thereafter, the first respondent made proposal to relieve her from the service on voluntary retirement scheme under the medical invalidation ground. Further, there was an audit objection claiming a sum of Rs.1,30,512/- from the petitioner's mother. It was paid by the petitioner's mother only on 29.12.2020. Thereafter, a proposal was sent to the respondents 2 & 3 by the first respondent.



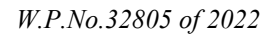
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9. After considering the request made by the petitioner, she was relieved from her service on 31.12.2021. Only on the part of the petitioner's mother, it got delayed for relieving her from service on the ground of medical invalidation. As per the government order in G.O.(Ms)No.18 Labour and Employment (01) Department dated 23.01.2020, the person, whose legal heirs are eligible for consideration under compassionate ground appointment is that the government servant who retire on medical invalidation within the age of 53 years. Admittedly, the petitioner's mother got relieved at the age of 54 years and 7 months. Therefore, the request made by the petitioner was rightly rejected by the first respondent and this Court finds no infirmity or illegality in the order passed by the first respondent. The prayer sought for in this writ petition is devoid of merits and liable to be dismissed.

10. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

30.01.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
rts



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