



WEB COPY



W.P.Nos.34202 of 2023, etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2024

CORAM:

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

W.P.Nos.34202, 34207, 34204, 34205, 34208, 34209,
34211 & 34206 of 2023 and
WMP.Nos.34081, 34088, 34084, 34093, 34095, 34098,
34100 & 34086 of 2023

WP.No.34202 of 2023

S.Rajagopal

... Petitioner

Vs.

- 1.The Director of Municipal Administration,
Commissionerate of Municipal Administration,
No.75, Urban Administrative Building,
Santhome High Road, Chennai-28
 - 2.The Commissioner,
Mannargudi Municipality,
Municipal Office,
Mannargudi
 - 3.The Secretary to Government,
Municipal Administration & Water Supply Department,
Fort St.George, Chennai 600 009
- ... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorari calling for the records in order of transfer dated 24.11.2023 made in Na.Ka.No.11790/2022/H-3 issued by the first respondent and to quash the same.



W.P.Nos.34202 of 2023, etc batch

For Petitioner
in all WP's : Mr.S.Rajmakesh

For Respondents
in all WP's

For R1 & 3 : Mr.P.Kumaresan,
Additional Advocate General
Assisted by
Mrs.R.L.Karthika,
Government Advocate

For R2 : Mr.P.Srinivas,
Standing Counsel

COMMON ORDER

These writ petitions have been filed challenging the order of transfer dated 24.11.2023 thereby transferred the petitioners from Mannargudi Municipality to various Municipalities. Therefore, the issue in all writ petitions are common and this Court is inclined to pass common order.

2. The petitioners had joined as Non Muster Roll employee in the second respondent Municipality. While being so, the second respondent passed resolution dated 30.10.2007 thereby resolved that the Municipality has recommended for Water Supply Attendants – 16 posts, Electrician Grade-II posts and Plumber – 4 posts. As per GO.Ms.No.21



W.P.Nos.34202 of 2023, etc batch

Municipal Administration and Water Supply Department dated 23.02.2006, NMR's who have been engaged prior to 01.10.1996 would be eligible to be considered for regularisation. Therefore, the petitioners submitted representations to the second respondent for their regularisation. There was no response and as such they were constrained to file writ petitions. As directed by this Court, this Court directed the first respondent to consider their representations. However, their requests were rejected for regularisation on the ground that NMR's who have been engaged prior to 01.10.1996 and continuously working as on that date would be eligible to be considered for regularisation. The order of rejection was challenged and the said writ petition was ordered and issued certain directions. Aggrieved by the same, the respondents preferred appeal and the same was dismissed. However, the order passed by this Court was not complied with and as such, contempt petitions were filed.

2.1 While pending contempt petitions, the respondents passed GO.(D).No.523 dated 07.09.2023 thereby appointed the petitioners in



W.P.Nos.34202 of 2023, etc batch

Sanitation and Public Health Department. Thereafter, they were transferred to various Municipalities where vacancies available.

3. Heard, the learned counsel appearing on either side.

4. On perusal of the counter filed by respondents 1 and 3 and on hearing the submissions of the learned counsel appearing on either side, revealed that transfer from one municipality to another is an incidence of the services. Further, the expenditures such as salary and the retirement benefits of the staff of the Mannargudi Municipality are exceeding the limit of 49% of the revenues of the Mannargudi Municipality by the addition of the petitioners. As the norms fixed in GO.Ms.no.21 MAWS Department, is 49% of the revenue, the workers have to be accommodated in other local bodies where the expenses are not in excess of 49% of the revenues. Therefore, the State Government has directed the respective municipalities that the sanitation works have to be undertaken by outsourcing of the work by issuing GO.Ms.no.10 dated 23.01.2023, due to which the vacancies in various municipalities



W.P.Nos.34202 of 2023, etc batch

have been reduced and in the case of Mannargudi Municipality, the vacant posts that were existing earlier have been surrendered. Therefore, in order to meet the administrative requirements, the petitioners have been transferred to various municipalities where vacancies available and also expenses were below 49% of the revenues. That apart, on perusal of the order passed by this Court in WP.Nos.24296 of 2008, etc batch while ordering to regularise the service of the petitioners, this Court specifically issued directions to the respondents to pass suitable orders depending upon the available vacancies at the Mannargudi Municipality and in respect of other workers, further suitable orders can also be passed giving such direction to the Mannargudi Municipality to identify the vacancies available in other Municipalities to accommodate other petitioners. Therefore, after regularising the petitioners' services, they were transferred to various municipalities, where vacancies available.

5. Further, it is also seen that the petitioners were transferred from the second respondent Municipality to Municipalities in the nearly District only, which are not far away from the second respondent



W.P.Nos.34202 of 2023, etc batch

Municipality. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent dated 24.11.2023. As such, all the writ petitions are devoid of merits and liable to be dismissed.

6. Accordingly, all the writ petitions are dismissed. However, the respondents are directed to permit the petitioners to join in the respective transferred places within a period a two weeks. The interregnum i.e. from the date of transfer to the date of joining in the transferred place shall be considered as duty and the petitioners are entitled for all service and attendant benefits. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

20.03.2024

Neutral citation : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
lok



W.P.Nos.34202 of 2023, etc batch

WEB COPY

To

- 1.The Director of Municipal Administration,
Commissionerate of Municipal Administration,
No.75, Urban Administrative Building,
Santhome High Road, Chennai-28
- 2.The Commissioner,
Mannargudi Municipality,
Municipal Office,
Mannargudi
- 3.The Secretary to Government,
Municipal Administration & Water Supply Department,
Fort St.George, Chennai 600 009



WEB COPY



W.P.Nos.34202 of 2023, etc batch

G.K.ILANTHIRAIYAN, J.

lok

W.P.Nos.34202, 34207, 34204, 34205,
34208, 34209, 34211 & 34206 of 2023

20.03.2024