



WEB COPY

W.P.(MD)No.16322 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.16322 of 2024
and
W.M.P.(MD)No.14178 of 2024

S.Karuppiah

... Petitioner

Vs.

- 1.The Additional Secretary,
Government of Tamil Nadu,
Fort St.George, Chennai-9.
- 2.The Additional Secretary to Government,
Co-operation, Food & Consumer,
Protection (H1) Department,
Secretariat, Chennai-9.
- 3.The President,
State Consumer Disputes Redressal
Commission Tamil Nadu,
1st Floor, Frazer Bridge Road,
V.O.C.Nager, Near TNPSC Building,
Park Town,
Chennai District-600 003.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to consider the petitioner's representation dated 12.03.2024 on the file of the second respondent and consequential direction to the second respondent to extend the service of the petitioner in the light of the interim order made by the Hon'ble Apex Court in *Ganashkumar Rajeshwarrao Selukar & Others vs. Mahendra Bhaskar Limaye and others*.



WEB COPY

W.P.(MD)No.16322 of 2024



For Petitioner : Mr.G.Anto Prince
For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

ORDER

Heard Mr.G.Anto Prince, learned counsel for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader for the respondents.

2.By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3.This writ petition has been filed seeking direction to consider the representation of the petitioner dated 12.03.2024 for extending the service of the petitioner as a Judicial Member in the State Consumer Disputes Redressal Commission, Madurai Circuit Bench in the light of the interim order made by the Hon'ble Supreme Court in ***Ganashkumar Rajeshwarrao Selukar & Others vs. Mahendra Bhaskar Limaye and others.***

4.The petitioner had been appointed as a Judicial Member in the State Consumer Disputes Redressal Commission, Madurai Circuit Bench vide G.O.Ms.No.29, dated 15.03.2022 and the tenure of the petitioner got expired on 17.06.2024. Therefore, the petitioner has given a request for further extension



W.P.(MD)No.16322 of 2024

and the same is still pending. In the meanwhile, the petitioner was relieved with a formal relieving order issued by the third respondent in R.C.No.A1/1823/2024 dated 12.06.2024.

5.A Public Interest Litigation in W.P.(MD)No.12218 of 2024 was filed by the Madurai State Consumer Commission Bar Association represented through Secretary seeking to fill up the vacancies in the State Consumer Redressal Forum and the same is pending.

6.The Consumer Protection (Qualification for Appointment, Method of Recruitment, Procedure of Appointment Term of Office Resignation and Removal of the President and Members of the State Commission and District Commission) Rules, 2020 (hereinafter referred to as 'Rules' for the sake of clarity and convenience) mandates that *“the President and every member of the State Commission and the District Commission shall hold office for a term of four years or up to the age of sixty-five years, whichever is earlier and shall be eligible for reappointment for another term of four years subject to the age limit of sixty five years, and such reappointment is made on the basis of the recommendation of the Selection Committee.”*



7.The said Rule was amended, subsequently on 15.09.2022 by extending the age of the President of the State Commission to 67 years. However, there is no age revision in respect of the members of the State Commission or the Members of the District Commission. As per Rule 10 (2) of the said Rules, the age limit for the Members of the State Commission and President and Members of the District Commission is 65 years to continue in the office of the respective Commission.

8.Reliance was placed upon the judgment of various High Courts, more particularly, the judgment of the Bombay High Court in ***Mahendra Bhaskar Limaye vs. Union of India, through Secretary dated 20.10.2023***, in which Rules 6(1) and 10(2) of the Rules were challenged and a declaration was sought to declare that the petitioners, who were the members at various District Commissioners are eligible for re-appointment to the post of Member of the District Commission under Rule 10(2) of the Rules.

9.In a nutshell, the above writ petitions have been filed to get the benefit of the service to the post of Judicial Member for a maximum number of years. While disposing the above writ petitions, the Bombay High Court has held that Rule 10 (2) of the Rules would be struck down, so far as it prescribes the tenure of the members of the State Commission President and Members of



the District Commission. It goes without saying that the Member of the State Commission and the President and Members of the District Commission shall assume office of the Commission even after completing the four years of tenure and they are eligible for reappointment until they attain the maximum age of 65 years irrespective of their earlier tenure.

10.Special Leave petition has been filed before the Hon'ble Supreme Court challenging the orders of the Bombay High Court made in W.P.No.3680 of 2023, in which interim orders have been passed on 27.06.2024 by allowing the Members of the State Commission and President and Members of other District Commissions, who were actually in service on the date of judgment in the writ petition and whose second term has not been expired, to assume the office of the Commission for one more term. In that order, it is also observed that in a case of Members, whose appointment was terminated and who have filed writ petitions before the High Court, it will be open for the High Court to decide in accordance with law. Only on the strength of the above observations, the petitioner has filed this writ petition.

11.So far as this petitioner is concerned, he has been given with the relieving order by proceedings dated 17.06.2024 stating that the petitioner has attained the age of 65 years, as per Rule 10 (2) of the Rules. However, the



W.P.(MD)No.16322 of 2024

Government has not passed any Government Order consequent to the above order passed by the President of the State Consumer Dispute Redressal Commission for relieving the petitioner from services. It is claimed by the petitioner that the Government has not approved the above relieving order and his application for seeking further extension is also pending.

12.As on today, the Government has not appointed any other person in the place of the petitioner and the post of Judicial Member remains vacant till now. While placing representations before the Government, the petitioner also claimed that he would squarely fall under the interim orders passed by the Hon'ble Supreme Court and also the order of the Bombay High Court, which deals with Rule 10(2) of the Rules.

13.This is infact, in the interim order of the Hon'ble Supreme Court dated 27.06.2024, it has been categorically made clear that no one is entitled to continue for third extension on the basis of the interim order. The petitioner does not fall within the third extension case. The petitioner claims his second extension after the expiry of his first tenure of four years. He has been relieved even while his application seeking extension is pending for consideration with the Government.



WEB COPY

14. According to the petitioner, on the whole the Rule 10 (2) has been struck down and hence, the fact that the petitioner is crossing the age of 65 years cannot be a bar for further extension of the tenure in terms of the interim order of the Hon'ble Supreme Court and the orders of the Bombay High Court.

15. The Supreme Court has observed that the President or Members are not entitled to any third term. There is no maximum age limit as per the Rules and even the Rules fixing the maximum limit is struck down, then there cannot be any limitation of tenure or age to continue in the post. However, the matter is pending before the Supreme Court and hence, this Court cannot deal with the scope of legality of the Rules.

16. However, the petitioner's representation has not been considered by the State so far and no new members have been appointed. In such a case, effective service cannot be made by the Commission and the petitioner believes that he can render effective service, if he is allowed to continue to act as Judicial Member, hence, he has filed this writ petition seeking a direction to extend his tenure. Therefore, it is for the Government to take a call on that representation and pass orders within a period of four weeks from the date of receipt of a copy of this order.



W.P.(MD)No.16322 of 2024

17. With the above directions, this writ petition is disposed of. It is made clear that the petitioner is at liberty to implead himself in the proceedings pending before the Hon'ble Supreme Court as a party seeking extension of age limit taking into consideration of old Rules. No costs. Consequently, connected miscellaneous petition is closed.

22.07.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
ta

To

1. The Additional Secretary,
Government of Tamil Nadu,
Fort St. George, Chennai-9.
2. The Additional Secretary to Government,
Co-operation, Food & Consumer,
Protection (H1) Department,
Secretariat, Chennai-9.
3. The President,
State Consumer Disputes Redressal
Commission Tamil Nadu,
1st Floor, Frazer Bridge Road,
V.O.C. Nager, Near TNPSC Building,
Park Town,
Chennai District-600 003



WEB COPY



W.P.(MD)No.16322 of 2024

R.N.MANJULA, J.

ta

W.P.(MD)No.16322 of 2024

22.07.2024