



W.P.(MD)No.24072 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.24072 of 2022 &
W.M.P.(MD)No.18181 of 2022

L.George Stephen

... Petitioner

vs.

1.The Commissioner,
Madurai Corporation,
Madurai.

2.The Deputy Director (Corporation Audit),
Local Fund Audit Department,
Madurai - 625 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the second respondent in ஓ.மு.எண்.577/அ3/2019 dated 24.06.2019 and quash the same as illegal and unlawful and consequently direct the first respondent to disburse the pensionary benefits to the petitioner and to pay monthly pension within a time frame.

For Petitioner : Mr.A.Robinson

For Respondents : Mr.K.K.Kannan for R1
No appearance for R2



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ORDER

Heard Mr.A.Robinson, learned counsel for the petitioner and Mr.K.K.Kannan, learned counsel for the first respondent.

2. The petitioner has filed this petition seeking Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the second respondent in ஓ.மு.எண்.577/அ3/2019 dated 24.06.2019 and quash the same and consequently direct the first respondent to disburse his pensionary benefits and pay monthly pension within a stipulated time.

3. The petitioner was appointed as an Electrician Motor Attendant in Thiruppuvanam Water Pumping Station, Madurai, on 03.01.1990 and he retired on 30.04.2018 as Skilled Assistant Grade II, which falls under the purview of Tamilnadu Municipal Corporation and Water Supply Service Rules, 1996. Rule 4 of the Tamilnadu Municipal Corporation and Water Supply Service Rules, 1996 prescribes the necessary qualification to be promoted as Skilled Assistant Grade II from the Corporation Basic Service. One of the qualifications is to pass in the



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Departmental Examination before the completion of the probation. The petitioner was promoted as Skilled Assistant Grade II with effect from 30.06.2006 even though he did not pass the Departmental Examination.

4. The petitioner has been functioning as a Skilled Assistant Grade II all along and also retired from service on 30.04.2018. However, by the impugned proceedings dated 24.06.2019, the second respondent has sent Audit Objection to the first respondent stating that the petitioner did not qualify himself to be promoted as Skilled Assistant Grade II as he did not pass the Departmental Examination and suggested that the petitioner should be demoted to the post of Electrician Motor Attendant. Challenging the same, the present writ petition is filed.

5. Mr.A.Robinson, learned counsel appearing for the petitioner submitted that in the Tamilnadu Municipal Corporation and Water Supply Service Rules, 1996, there is no penal consequence contemplated, in case, an employee did not pass the Departmental Examination, but was recruited / promoted to the post of Skilled Assistant Grade II. It is his



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submission that the petitioner who was allowed to work as a Skilled Assistant Grade II from the year 2006, is denied the retiral benefits for the reasons best known to the respondents.

6. On perusal of the impugned order, it is seen that it is only an Inter-Departmental Communication and no order has been passed by the first respondent. It is for the first respondent to take a call on the Audit Objection dated 24.06.2019 and either pass a consequential order or give a clarification if it deems fit. The petitioner has filed this writ petition in a pre-matured manner even before getting any order in this regard from the hands of the first respondent.

7. In view of the above stated reasons, the writ petition is **disposed**. No costs. Consequently, connected Miscellaneous Petition is closed.

18.04.2024

NCC: Yes/No
Index : Yes/No
Speaking/Non-Speaking order
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The Commissioner,
Madurai Corporation,
Madurai.



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R.N.MANJULA, J.

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