



W.A.(MD) No.348 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	29.11.2024
Pronounced on	10.01.2025

CORAM:

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN
and
THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR**

**W.A.(MD) No.348 of 2020
and
C.M.P.(MD) No.2367 of 2020**

1.The Commissioner of Municipal Administration,
Office of the Commissioner of Municipal Administration,
Chepauk, Chennai.

2.The Commissioner,
Rajapalayam Municipality,
Rajapalayam,
Virudhunagar District.

... Appellants/Respondents

-VS-

R.Mouriyan

... Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 25.02.2019, passed in W.P.(MD) No.110 of 2012, on the file of this Court.



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WEB COPY For Appellants : Mr.G.Suriyananth for A1

No Appearance for A2

For Respondent : Mr.J.Jeyakumaran

J U D G M E N T

[Judgment of the Court was made by N.SENTHILKUMAR, J.]

This Writ Appeal is filed by the State challenging the order passed by this Court in W.P.(MD)No.110 of 2012, dated 25.02.2019.

2.The brief facts are as follows:

(a) The writ petitioner had completed his higher secondary in the year 1990 and he was initially appointed as NMR (permanent) in the second appellant Municipality on 20.01.1996. The writ petitioner filed the above writ petition challenging the proceedings in Na.Ka.No. 49428/2009/K2, dated 22.11.2011 and consequently direct the appellants to appoint the petitioner either in the post of Junior Assistant or Revenue Inspector from January 2008, the date on which the vacancy arose in the light of G.O.Ms.No.125, Municipal



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(b) Counter was filed in the writ petition stating that the writ petitioner was appointed as a Watchman on 20.07.2007 and after joining the post of Watchman, he made a request to the appellants to absorb him as a Junior Assistant or Revenue Assistant. It is further stated in the counter that claiming promotion for the post of Junior Assistant or Revenue Assistant will not arise, as the post of Watchman is only an entry-level post and cannot claim promotion. It is further stated in the counter that all the NMRs were not to be regularized immediately based on G.O.Ms.No.125, dated 27.05.1999. The request of the petitioner was to regularise only to the post of Watchman and the writ petitioner had accepted the regularization under the category of Watchman. The writ petitioner had not chosen to challenge the regularization as Watchman. The learned Single Judge by taking into consideration of the Government order in G.O.Ms.No.125, dated 27.05.1999, NMRs who were fulfilled the eligibility requirements shall



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be absorbed in a post that is commensurate with his educational qualification.

(c) The learned Single while taking into consideration the additional qualification of the writ petitioner, the first appellant issued a circular vide Na.Ka.No.27350/99/F3, dated 03.09.1999 and also that the details of the availability of vacancies and the numbers of NMRs and based on the higher educational qualification, priority be given to the NMRs and they be appointed and regularised in the sanctioned strength and after making such an appointment and regularisation such details shall be forwarded to the appellants. The said circular was issued by the Municipal Administration and Water Supply Department.

(d) The learned Single Judge by referring to G.O.Ms.No.125, dated 27.05.1999, had directed the appellants herein to pass orders on the representation of the writ petitioner, dated 02.09.2011 by directing his absorption in the cadre of Junior Assistant/Revenue Assistant from the date when a regular vacancy arose in the second appellant



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Municipality and the learned Single Judge has further directed that the order shall be passed within a period of eight weeks from the date of receipt of a copy of that order.

(e) Aggrieved by the same, the appellants have filed the present writ appeal.

3. Admittedly, the writ petitioner was appointed in the post of Watchman, who was having higher qualification of SSLC, which is contrary to G.O.Ms.No. 125, dated 27.05.1999 and regularisation was made based on the service rules as contemplated under G.O.Ms.No.125, dated 27.05.1999. The findings given in favor of the writ petitioner that there is a promissory estoppel against the appellants, and there cannot be a promotion from the post of watchman to Junior Assistant as there is no rule permitting such a claim. He had also relied upon the proceedings dated 22.11.2011 with regard to the representation made by the writ petitioner, dated 02.09.2011, which was declined as there is no rule to promote the writ petitioner as claimed.



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4. The facts are not in dispute. Admittedly, the writ petitioner was originally appointed as NMR as a watchman with the second appellant herein. The appointment and regularization of the petitioner could be made only in the sanctioned post. The writ petitioner was appointed and regularized as NMR in the Watchman post. The claim made by the writ petitioner on the strength of G.O.Ms. 125, dated 27.05.1999 cannot be accepted on the ground of the post was not a sanctioned post and the post itself arise only for the post of watchman. The said post is no promotional post as Junior Assistant or Revenue Inspector as claimed by the writ petitioner. The reasoning given by the learned Single Judge with regard to promote the writ petitioner in the post of Junior Assistant/Revenue Assistant is alone set aside.

5. In the result, the writ appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

[T.K.R., J.] [N.S., J.]
10.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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Pre-Delivery Judgment Made In
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