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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2025

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.Nos. 5347 & 418 of 2025

And

W.M.P.Nos. 5921, 5922, 5925, 5927, 482 to 484 & 488 of 2025

W.P.No. 5347 of 2025

M.Muthumani

... Petitioner

..Vs..

1. The Commissioner
Greater Chennai Corporation
Ripon Building, Chennai – 600 003.

2. The Deputy Commissioner (Works)
Greater Chennai Corporation
Ripon Building, Chennai – 600 003.

3. Thiru.V.Kumaresan

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus calling for the records of the first respondent in his proceedings



Po.Thu.Se.Mu.Na.Ka.No.E2/5932/2019 dated 14.08.2024 in so far as its
reverts the petitioner as Assistant Law Officer and consequential order of
the second respondent in his proceedings Sa.Ku.Na.Ka.No.
Sa.Ku.1/4750/2024 dated 28.01.2025 fixing the pay of the petitioner in the
post of Assistant Law Officer w.e.f. 16.08.2024 served to the petitioner on
30.01.2025 and to quash the same as being unsustainable in law and for a
consequential direction to the respondents 1 & 2 to restore the petitioner to
the post of Law Officer in the first respondent Corporation.

For Petitioner	:: Mrs. N.Kavitha Rameshwar
For RR 1 & 2	:: Mr.Raghul Adhithya and Mrs. P.T.Rama Devi
For 3 rd Respondent	:: Mr.L.Chandrakumar for Mr.P.Kannan Kumar

W.P.No. 418 of 2025

M.Muthumani ... Petitioner

..Vs..

1. The Commissioner
Greater Chennai Corporaion
Ripon Building, Chennai – 600 003.

2. Thiru.V.Kumaresan ... Respondents



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PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the records of the proceedings of the first respondent in Po.Thu.Se.Mu.Na.Ka.No. E2/5932/2019 dated 14.08.2024 appointing the second respondent in the post of Law Officer with retrospective effect, when the petitioner is already holding the said post, being senior to him, and to quash the same as being unsustainable in law, and for a consequential direction to the first respondent to fix the seniority in the post of Assistant Law Officer based on the merit/marks scored during the time of Appointment, for future promotions of the petitioner to the post of Senior Law Officer.

For Petitioner	:: Mrs. N.Kavitha Rameshwar
For 1 st Respondent	:: Mr.Raghul Adhithya and Mrs. P.T.Rama Devi
For 2 nd Respondent	:: Mr.L.Chandrakumar for Mr.P.Kannan Kumar

COMMON ORDER

Both the Writ Petitions have been filed by the same petitioner. The petitioner was working as Assistant Law Officer, Greater Chennai



Corporation and subsequently promoted as Law Officer.

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2. In W.P.No. 418 of 2025, the petitioner who was reverted as Assistant Law Officer has questioned the order appointing the second respondent as Law Officer with retrospective effect by an order dated 14.08.2024.

3. In W.P.No. 5347 of 2025, quite apart from again challenging the same order dated 14.08.2024, the petitioner had challenged the consequential proceedings of the second respondent/ the Deputy Commissioner (Works), Greater Chennai Corporation, Chennai, dated 28.01.2025 whereby the pay of the petitioner was refixed as applicable to the post of Assistant Law Officer with effect from 16.08.2024.

4. The facts are cited in accordance with the averments affidavit filed in support of W.P.No. 5347 of 2025.

5. The petitioner M.Muthumani and the third respondent V.Kumaresan were both appointed as Assistant Law Officer consequent to a



viva voice conducted by the first and second respondents and they joined duty on 28.02.2011. Three candidates had been selected. The first one P.Vijaykumar had obtained 20 marks in the viva voice. The third respondent herein V.Kumaresan had obtained 13.75 marks and the petitioner M.Muthumani had obtained 17.5 marks. However, while determining the serial number in which selected candidates should be placed, P.Vijaykumar was placed in serial No.1, the third respondent V.Kumaresan was placed in serial No.2 and the petitioner / M.Muthumani was placed in serial No.3. The reasons given for placing the petitioner, who had obtained more marks than the third respondent in serial No.3 was based on a resolution of the Corporation that seniority shall be fixed in accordance with age and experience. V.Kumaresan was born in the year 1968 and the petitioner born in the year 1974. V.Kumaresan had registered himself in the Employment Exchange on 11.03.1998, whereas the petitioner had registered herself in the Employment Exchange on 24.05.2001. The candidates had been sponsored by the Employment Exchange and after conducting viva voice / interview, they had been selected.

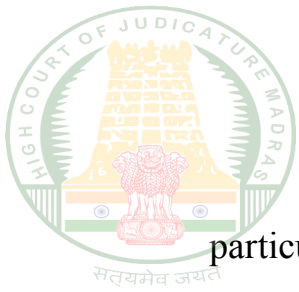
6. Two versions are given as to why V.Kumaresan had been placed



in serial No. 2 and M.Muthumani the petitioner herein had been placed in serial No.3. The first one is that V.Kumaresan / the third respondent was senior in age and experience and therefore had been placed in serial No.2. However, the learned counsel for the petitioner gave a second reversion and claimed that the seniority had been allotted in accordance with the rotation system and V.Kumaresan who belongs to Most Backward Class was placed in serial No.2 and the petitioner who belongs to Backward Class was placed in serial No.3.

7. Both these explanations do not address the fact that the petitioner had obtained 17.5 marks in the interview/viva voice and the third respondent V.Kumaresan had obtained 13.75 marks in the interview. That was the only test by which their suitability and eligibility to be appointed as Assistant Law Officers was determined. That was the only screening methodology adopted by the first and second respondents to take a decision to appoint them as Assistant Law Officers.

8. While functioning as Assistant Law Officer, V.Kumaresan/ third respondent was visited with a charge memo on 22.06.2022. On that



particular date, there was a vacancy available to the next promotion post of Law Officer. Since the charge memo was pending, he was not considered for promotion and the petitioner was appointed on 24.06.2024 to the post of Law Officer. She continued to function in that particular post.

9. An enquiry was conducted against V.Kumaresan/third respondent and finally, the enquiry officer had returned a finding that the charges were not established. Thereafter, proceedings had been issued by the respondents dropping the charges. I am not taking that issue any further.

10. A clarification was then sought from the Government and a clarification had been issued on 11.07.2024 that since the charges had been dropped, V.Kumaresan could be now considered for promotion in the panel for the year 2022-2023 with retrospective effect but with notional extension of service and monetary benefits.

11. V.Kumaresan had given a representation and later filed W.P.no. 35903 of 2023 seeking examination of that particular representation. A learned Single Judge of this Court by an order dated 22.12.2023 placed an



obligation on the Additional Chief Secretary / Commissioner, Greater Chennai Corporation, to examine the representation given by V.Kumaresan / third respondent and pass orders with regard to the merits of the claim of V.Kumaresan within a period of four weeks from the date of receipt of a copy of that particular order from the High Court. Since orders had not been passed, a contempt petition came to be filed.

12. This stirred the first and second respondents into action as they had to take a decision. They found that the petitioner herein had already been promoted as Law Officer. Now they had to consider the case of V.Kumaresan who was eligible to be considered for promotion to the post of Law Officer with effect from the year 2022-2023. They did what they could reasonably do, namely, revert the petitioner to the post of Assistant Law Officer and promote V.Kumaresan to the post of Law Officer. This promotion and reversion was justified on the ground that V.Kumaresan was senior in age and experience and therefore, was senior to the petitioner herein and therefore entitled to be promoted in the panel 2022-2023 and the only way he could be so promoted since there was only one post available for the post of Law Officer was to oust the petitioner from that particular post and revert her to the post of Assistant Law Officer and place him in the

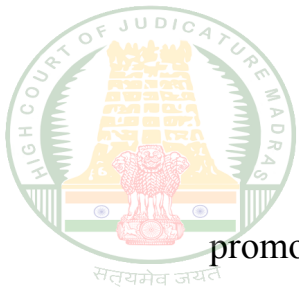


post of Law Officer. To put it mildly, this is a very sorry state of affairs.

WEB COPY 13. When the disciplinary proceedings were pending and V.Kumaresan was not considered for promotion and over looking him or rather side stepping him, the petitioner had been promoted to the post of Law Officer, prudence required that such promotion order should have been issued subject to outcome of the disciplinary proceedings.

14. The learned counsel for the third respondent/V.Kumaresan however stated that there being only one post of Law Officer, there could not be such reservation made or a qualified promotion being granted. It had been contended that if charges are dropped or if charges are not established, then automatically, V.Kumaresan must be considered for promotion since it has to be reckoned that the charges had never been framed at all or no proceedings had been initiated against V.Kumaresan.

15. It had been therefore contended by the learned counsel appearing on behalf of the third respondent that the first and second respondents had correctly given due credence to the seniority of the third respondent V.Kumaresan and had promoted him on the date when he was eligible to be



promoted had departmental proceedings not been initiated against him namely, in the panel year 2022-2023. It had therefore contended that a wrong had been set right by promoting V.Kumaresan to the post of Law Officer with effect from 2022-2023 on the date on which he was eligible to be so considered for promotion.

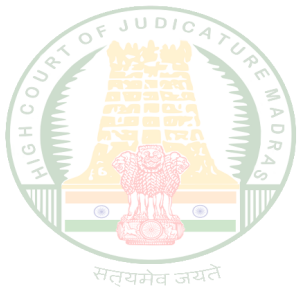
16. It had also been stated by the learned counsel for the third respondent that the petitioner must consider herself fortunate as she had not been directed to reimburse the salary received by her in the post of Law Officer which she held from the date of promotion in June 2022 till she was reverted back in August 2024. It had also been stated that V.Kumaresan had not been granted any monetary benefits though he had been recognised to be promoted with effect from June 2022 onwards.

17. The learned counsel for the petitioner however claimed that there was a selection process conducted and after a particular selection process in which marks had been granted and weightage had been given for those marks, then in accordance with the directions of the Hon'ble Supreme Court in *P.Madhu Vs. K.Nanthakumar and another reported in Contempt*



Petition (Civil) Diary No. 6415/2021 in SLP(C)No. 2886 of 2016 by an

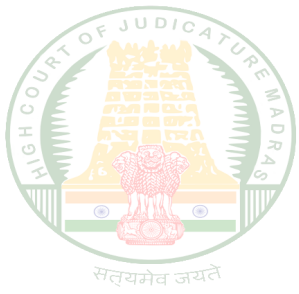
order dated 18.04.2023 which directions are binding on every department, the seniority should have been revised in accordance with merit and under no other consideration. It had been contended that the petitioner had obtained 17.5 marks in the only test conducted, namely, interview while the third respondent/V.Kumaresan had obtained 13.75 marks and therefore overlooking every other aspect including age / experience / rota quota, the petitioner should be deemed to be senior to V.Kumaresan and therefore contended that the petitioner had a right to be promoted as Law Officer ahead of V.Kumaresan. It had been contended that the Hon'ble Supreme Court in ***P.Madhu Vs. K.Nanthakumar and another reported in Contempt*** ***Petition (Civil) Diary No. 6415/2021 in SLP(C)No. 2886 of 2016 by an*** ***order dated 18.04.2023*** had directed that such seniority should be refixed in all public departments on and from 10.03.2003. It had been contended that therefore, a legal obligation was cast on the first and second respondents to apply this particular Judgment of the Hon'ble Supreme Court and to automatically revise the seniority since the petitioner and the third respondent had entered the office of Assistant Law Officer on direct recruitment and not recruited on transfer from any other post.



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18. It had been further pointed out by the learned counsel for the petitioner that the only test which was conducted was interview and marks had been granted for such interview and if those marks were to be examined and merit was to be the bench mark for determining seniority then the first and second respondents, bound by the dictum of the Hon'ble Supreme Court should have placed the petitioner as senior to the third respondent. It was contended that any resolution passed by the respondents that seniority would be determined only on the basis of experience would not withstand the scrutiny of any Court and would be against the dictum of the Hon'ble Supreme Court. It had also been contended by the learned counsel for the petitioner that merely because seniority had not been revised officially, it would not mean that the petitioner should therefore been considered as junior to the third respondent. She should have been placed senior to V.Kumaresan.

19. I have carefully considered the arguments advanced and perused the materials available on records.



WEB COPY 20. The petitioner had filed W.P.No. 418 of 2025 questioning an order reverting her to the post of Assistant Law Officer from the post of Law Officer. That order was passed on 14.08.2024 by the first respondent therein / the Commissioner, Greater Chennai Corporation. By that order, the petitioner was reverted to the post of Assistant Law Officer and the second respondent in the said Writ Petition, V.Kumaresan was promoted to the post of Law Officer. These issues would not have arisen for consideration had not in June 2022, V.Kumaresan been served with a Show Cause Notice contemplating initiation of disciplinary proceedings.

21. Both the petitioner and V.Kumaresan were functioning as Assistant Law Officers. They had been recruited as Assistant Law Officers. They had been recruited on the basis of a test conducted. That test was by viva voice / interview. Marks were given for that particular test. The petitioner was granted 17.5 marks and V.Kumaresan was granted 13 marks. There was yet another candidate P.Vijaykumar, who had obtained 20 marks but quite sensibly in my opinion, and exercising prudence, he opted not to join the post. This left only the petitioner and V.Kumaresan as the only two



candidates, who had been selected for the post of Assistants Law Officer, Greater Chennai Corporation. At that particular point of time when they were so selected on 25.01.2019, on the basis of a resolution of the Corporation, which stated that seniority would be on the basis of experience, V.Kumaresan was placed senior to the petitioner. The marks obtained were considered irrelevant for placement of senior.

22. Alternatively, it is also seen that V.Kumaresan belongs to Most Backward Class and it is contended that as per the rota quota system, he was placed in serial No.2 and the petitioner, who belonged to Backward Class was placed in serial No.3.

23. In June 2022, the promotion to the post of Law Officer opened. V.Kumaresan was not considered since disciplinary proceedings had been initiated against him. The petitioner was therefore been appointed as Law Officer. The order of appointment of the petitioner as Law Officer is very cryptic and let me extract it in entirety for better appreciation:-



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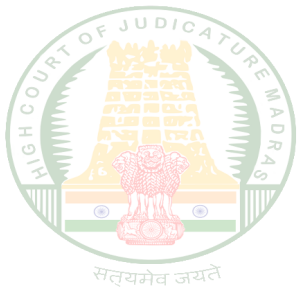
மேலே படிக்கப்பட்ட மன்றத் தீர்மானத்தில் 01.04.2022ஐ மைய நாளாகக் கொண்டு தயாரிக்கப்பட்ட 2022 - 2023 ஆம் ஆண்டிற்கான சட்ட அலுவலர் பதவிக்கான தெரிவுப்பட்டியலுக்கு ஒப்புதல் அளிக்கப்பட்டுள்ளதைத் தொடர்ந்து, தெரிவுப்பட்டியலில் இடம்பெற்றிருக்கும் திருமதி.M.முத்துமணி உதவி சட்ட அலுவலர் அவர்களுக்கு அரசாணை நிலை எண்.303, நிதி (ஊ.கு.)த் துறை, நாள் 11.10.2017 ன் படி நிலை 25 ரூ.59,300/- ரூ.2,17,600/- ஏன்ற ஊதிய விகிதத்தில் சட்ட அலுவலர் பதவி உயர்வு வழங்கி, பெருநகர சென்னை மாநகராட்சி சட்ட குழுமத்தில் (தலைமையிடம்) பணியமர்வு செய்து ஆணை வழங்கப்படுகிறது.

மேற்படி பதவி உயர்வு பெற்ற அலுவலர்களின் பணியேற்பு அறிக்கையினை பொதுத்துறைக்கு அனுப்பி வைக்கப்பட வேண்டும்.

ஓம்/- எம்.எஸ்.பிரசாந்த்,

ஆணையர்(பொ) ”

24. A reading of the same shows that the petitioner had been promoted to the post of Law Officer from the post of Assistant Law Office consequent to a resolution passed by the respondent on 01.04.2022. There is no reference about the disciplinary proceedings that were pending against V.Kumaresan or that this promotion was subject to the outcome of the disciplinary proceedings.



25. It is a mute question whether that fact should have been clarified by the respondents. The petitioner was under legitimate expectation that she had been promoted in accordance with rules and regulations to the post of Law Officer. She was never put on notice that it was subject to any other condition surfacing in future. She was never placed put on notice that there a decision could be taken in future of reverting her back to the post of Assistant Law Officer. This fact is neither denied or disputed.

26. The disciplinary proceedings against V.Kumaresan parallely proceeded and finally, the charges were dropped. The effect affected the petitioner's prospects.

27. A clarification letter dated 11.07.2024 was addressed to the first and second respondents by the Government giving an opinion that since charges have been dropped against V.Kumaresan, he could be considered for promotion to the post of Law Officer in the panel of the year 2022-2023.

28. V.Kumaresan filed a Writ Petition in which a Mandamus was issued to examine a representation given by him by which representation, he



had sought that he should be considered for promotion. He also filed a Contempt Petition. The respondents thereafter passed the impugned order dated 14.08.2024 appointing him as Law Officer. In the order impugned, it had been stated that both the petitioner and V.Kumaresan, had joined duty on 28.02.2011 as Assistant Law Officers and thereafter, V.Kumaresan had filed W.P.No. 35903 of 2023 and an order had been passed on 22.12.2023 and accordingly, he was promoted as Law Officer and that the petitioner herein had been depromoted to the post of Assistant Law Officer.

29. Very unfortunately, both the first and second respondents as also the Principal Secretary to the Government who had issued the clarification had given a go by to the directions of the Hon'ble Supreme Court that seniority should be based on merits on and from 10.03.2023 onwards and that there should be a revision of the seniority list of all government servants in all departments in accordance with such direction. Had the directions been followed and had a little consideration shown to follow the dictum of the Hon'ble Supreme Court, then the petitioner would have been placed senior to V.Kumaresan. It is not known why the Principal Chief Secretary or the first and second respondents had given a goby to the

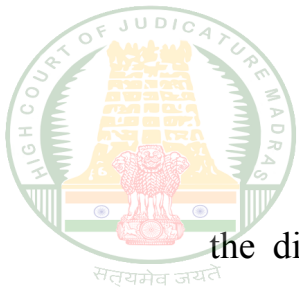


directions of the Hon'ble Supreme Court. It is not their case that they stood exempted from following the dictum of the Hon'ble Supreme Court.

30. They are bound by the directions of the Hon'ble Supreme Court. As a matter fact, the Hon'ble Supreme Court in that particular Judgment had said that if seniority is not redrawn in accordance with merit, then officials will be called in person to explain why such exercise was not done. While examining the marks obtained by them in the interview, it is clear that the petitioner should have been placed in serial No.2 and V.Kumaresan should have been placed under serial No.3. Probably it is for that reason, the order of the petitioner promoting her as Law Officer did not include any clause that it was subject to the outcome of the disciplinary proceedings since any outcome would not affect the promotion granted.

31. I hold that whether the charges were dropped or whether the charges stood proved, the petitioner's promotion as Law Officer could not and should not have been disturbed.

32. The opinion given by the Principal Secretary flies in the face of



the directions of the Hon'ble Supreme Court and therefore, that letter it could only be taken as a piece of paper without any legal effect. There is no reference to the directions issued as to how seniority should be determined when candidates are selected on the basis of a test and selected by direct recruitment on the same day and join on the same day.

33. When viewed from that angle and when applying the law of the land as directed by the Hon'ble Supreme Court, V.Kumaresan, by no stretch of imagination could be considered as senior to the petitioner, who had been granted more marks by the first and second respondents in their evaluation of the respective merits. Therefore, whether the disciplinary proceeding was pending or not pending and whether the charges had been subsequently dropped or not dropped, the petitioner had been correctly and lawfully promoted as Law Officer and has every right to seek a direction to be retained in that particular post.

34. The impugned orders are therefore set aside. A direction is given to the first and second respondents to once again pass appropriate orders placing the petitioner herein as Law Officer. The second respondent,



V.Kumaresan in W.P.No. 418 of 2025/ the third respondent in W.P.No.

5347 of 2025 will necessarily have to face the reality that he must function only as Assistant Law Officer and necessary orders in that regard must be passed within a period of two weeks from the date of receipt of a copy of this order.

35. The Writ Petitions stand allowed. W.M.P.Nos. 5921 & 482 of 2025 stand ordered as prayed for. W.M.P.Nos. 5922, 5925, 5927, 483, 484 & 488 of 2025 stand closed. No order as to costs.

36. Naturally, the petitioner, who had not been paid appropriate remuneration should be paid the remuneration as was and is applicable to the post of Law Officer on and from the date, she had been wrongly reverted to the post of Assistant Law Officer.

03.04.2025

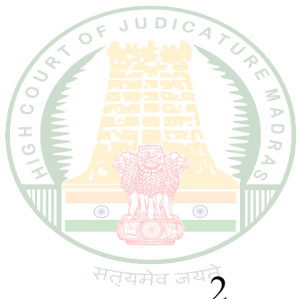
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Internet: Yes/No

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C.V.KARTHIKEYAN, J.,

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