

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.10004 of 2013

and

M.P.No.1 of 2013

L.Muthukumar

.. Petitioner

- Vs -

1. The Commissioner of Municipal Administration,
Fort St.George, Chennai - 600 009.
 2. The Regional Director of Municipal Administration,
Tiruppur.
 3. The Commissioner,
Gudalur Municipality Grade - II,
Gudalur, The Niligiris District.
- .. Respondents

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records relating to the 3rd respondent proceedings in Na.Ka.No.2031/2012 Tha.A. dated 15.03.2013 and to quash the same and consequently to direct the 1st respondent to appoint the petitioner as per his qualification in service in the appropriate post with all service benefits from the date of such dismissal. (Prayer amended as per order dt.25/08/2014 made in M.P.No.1/2014 in W.P.10004/2013)

For Petitioner : Mr.K.Krishnan for
Mr.K.Dhananjayan

For Respondents : Mr.ERA.Premnath
Government Advocate

WEB COPY
O R D E R

By consent, the writ petition is taken up for final disposal.

2. The petitioner would state that he was working as Water Supply Electrician Grade - I in the Gudalur Municipality ever since 2008 and he performed his duties properly and sincerely and that his initial appointment which was on temporary basis was subsequently made permanent, however no order has been passed. It is further stated by the petitioner that a permanent post of Water Supply Electrician

Grade-I was created and sanctioned by the Director of Town Panchayats vide his proceedings dated 10.07.2000, wherein, educational qualification has been prescribed for the post of Water Supply Electrician Grade - I and Grade - II as a pass in S.S.L.C. with ITI Electrical Certification or any certification. The third respondent Municipality vide letter dated 04.02.2008, has requested the District Employment Officer, Ooty to sponsor candidates with suitable qualifications and the petitioner's name was sponsored and since the petitioner possessed the requisite educational qualifications, he was selected and appointed to the post of Water Supply Electrician Grade - I on 28.04.2008 and the petitioner was working in that capacity for nearly three years and thereafter, he was served with a show cause notice by the third respondent, based on an audit objection, that he does not have the necessary educational qualification for the said post for the reason that he has possessed only ITI certificate in Electrical Wireman Helper and a pass in XII standard. The petitioner was issued with the show cause notice on 18.05.2011, as to why he should not be dismissed from service. The petitioner has also submitted his explanation and the petitioner apprehending that he is likely to be dismissed from service, filed a writ petition in W.P.No.17396 of 2012, wherein, this Court, directed the respondents therein, to furnish the copies of documents and accordingly documents were furnished. However, the petitioner was issued with dismissal order on 11.07.2012, pending disposal of the said writ petition and therefore he filed a contempt petition in Cont.P.No.1204 of 2012. During the pendency of the contempt petition, the documents were furnished to the petitioner and dismissal order was withdrawn and the contempt petition was closed on 08.10.2012. Thereafter, the petitioner was issued with a notice by the third respondent to appear for enquiry on 28.11.2012 with all necessary documents and he has also appeared in the enquiry and made his submissions. The petitioner expressed his grievance that though there is no audit objection for appointing him in a different post commensurate with his educational qualification, it was not done so, whereas, he was dismissed from service. The representation submitted in this regard also came to be rejected while passing the impugned order and hence came forward to file this writ petition.

3. The learned counsel appearing for the petitioner would submit that since the petitioner has passed the 12 standard and also having I.T.I. certificate in Electrical Wireman Helper, the petitioner is entitled to get appointment to the post of either Water Supply Assistant or Junior Assistant as per the recommendation made by the third respondent to the first respondent.

4. Heard the submissions of the learned counsel appearing for the petitioner and Mr.ERA.Premnath, learned Government Advocate appearing on behalf of the respondents.

5. The fact remains that the name of the petitioner was sponsored by the Employment Exchange and he was appointed after participating

in the selection process and worked as Water Supply Electrician Grade - I and nearly after four years, he was dismissed from service on 11.07.2012. Admittedly, the petitioner is having the qualification of 12th standard pass as well as I.T.I. certificate in Electrical Wireman Helper and the third respondent vide his proceedings dated 04.04.2012, addressed to the first respondent has also made a positive recommendation.

6. In the result, the writ petition is partly allowed and the impugned order dated 15.03.2013 is set aside, in the light of the communication of the Additional Director, Commissionerate of Municipal Administration, Chepauk, Chennai - 5 addressed to the third respondent in ROC.No.14067/2013/F3, dated 25.11.2013 and the third respondent is directed to consider the claim of the petitioner and pass orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

kk

To

1. The Commissioner of Municipal Administration,
Fort St.George, Chennai - 600 009.
2. The Regional Director of Municipal Administration,
Tiruppur.
3. The Commissioner,
Gudalur Municipality Grade - II,
Gudalur, The Nilgiris District.
4. The Additional Director,
Commissionerate of Municipal Administration,
Chepauk, Chennai - 600 005.

+1 cc to The Government Pleader, sr.49858
+1 cc to Mr.K.Dhananjayan, Advocate, sr.49479

W.P.No.10004 of 2013
and M.P.No.1 of 2013

pa co, kra 23/09