

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-08-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.23344 of 2015

J.Vijayakumar

.. Petitioner

vs

1. The State of Tamilnadu
rep. By its Secretary to Government
Municipal Administration and
Water Supply Department
Fort St. George, Chennai 9.
2. The Commissioner of Municipal
Administration
Chepauk, Chennai 5.
3. The Commissioner
Corporation of Madurai
Madurai
4. Palanivel
Assistant Commissioner (Personnel)
Corporation of Madurai, Madurai.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the first respondent to consider the petitioner's representation/appeal dated 16.6.2015, and pass orders on the same as per Rule 26 of the Tamil Nadu Municipal Corporation Service Rules, 1996 with regard to illegal promotion of the fourth respondent.

For Petitioner : Mr.G.Elanchezhian

For Respondents : Mr.V.Subbiah
Special Government Pleader
for RR1 & 2

ORDER

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

2.The petitioner would state that he was initially appointed as a Bil Collector in the year 1986, in the services of Madurai Corporation and he claims that he has passed all departmental tests even in the year 1996 itself. The petitioner would further state that the Service Rules came to be framed by issuing G.O.Ms.No.237, Municipal Administration and Water Supply (Election) Department, dated 26.9.1996, and by introducing grouping system for the purpose of giving promotion; but, however, the Service Rules were not followed by Madurai Corporation and therefore, the petitioner filed W.P.No.5168 of 2009 praying for appropriate direction to fix inter se seniority among the grouped employees and consequential order for promotion and pursuant to the orders passed by this Court, the Government has issued G.O.(3D) No.24, Municipal Administration and Water Supply (Corporation 4) Department, dated 11.8.2010, relaxing the working experience of two years in other posts, in respect of Madurai Corporation, so far as the Tax Collectors are concerned, and also issued a further direction directing the Madurai Corporation to promote Tax Collectors as Assistant based on the seniority from the date of initial appointment, and accordingly, the petitioner was given promotion as Assistant on 18.8.2010, and was not given retrospective effect.

3.It is further stated by the petitioner that some of the employees had also challenged G.O.(3D) No.24 dated 11.8.2010, before the Madurai Bench of this Court and it was dismissed on 26.4.2013, and thereafter, the Government has issued a clarification letter to the above said Government Order directing the Commissioner of Municipal Corporation, Chennai 5, to prepare year-wise promotion panel from the year 1996 onwards for effecting promotion to the higher post and promote eligible persons to the post of Assistant based on the particular year of panel, and a copy of the said letter was also marked to the Madurai Corporation Commissioner and accordingly, the Commissioner of Madurai Corporation prepared a tentative revised seniority list on 23.9.2013, and invited objections from the aggrieved persons and once again, the clarification given by the Government, was put to challenge by some of the employees by filing W.P.No.16887 of 2013 and interim order of status-quo was also granted on 11.10.2013.

4.The grievance expressed by the petitioner, is that in spite of the subsistence of the order of status-quo, the Corporation of Madurai has promoted his juniors vide proceedings dated 21.12.2013, and the petitioner has also submitted a representation and since he was not favoured with any response, filed W.P.No.30139 of 2014 to consider and dispose of his representation dated 24.12.2013, wherein, he has made a complaint with regard to the promotion given to his juniors, and notice of motion was ordered and pendency of the writ petition, once again, the third respondent has promoted the fourth respondent as Assistant Commissioner (Personnel), and the petitioner, in this regard, has submitted a

representation/appeal dated 16.6.2015, to the first respondent in terms of Rule 26 of the Tamil Nadu Municipal Corporation Service Rules, 1996, and since no response is forthcoming, came forward to file this writ petition.

5.The learned Counsel appearing for the petitioner, would submit that promoting the fourth respondent is per se in violation of the interim order passed by the Court in the above said writ petition, and in this regard, a detailed representation/appeal dated 16.6.2015, was submitted to the first respondent to set right the said mistake and since no order is passed, the petitioner is constrained to approach this Court by filing this writ petition.

6.The Court heard the submissions of Mr.V.Subbiah, learned Special Government Pleader, who accepted notice on behalf of the respondents 1 and 2, also.

7.This Court, taking into consideration the limited scope of prayer sought for by the petitioner, and without going into the merits of the same, directs the first respondent to consider the petitioner's representation/appeal dated 16.6.2015, on merits and in accordance with law, after putting on notice, the fourth respondent, and pass orders 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 as well as to the fourth respondent. The writ petition is disposed of accordingly. No costs.

nsv

s/d-

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To:

1. The Secretary to Government
Municipal Administration and
Water Supply Department
Fort St. George, Chennai 9.
2. The Commissioner of Municipal
Administration
Chepauk, Chennai 5.
3. The Commissioner
Corporation of Madurai
Madurai

+ 1 cc to Govt.Pleader, High Court, Madras SR 39947

+ 1 cc to Mr.G.Elanchezhiyan, Advocate SR 40020

msm(co)
prk18/8

W.P.No.23344 of 2015



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