

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2015

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.19091 of 2013

and M.P.Nos.1/14 & 1 of 2015

K.Sugumar

.. Petitioner

Vs

- 1 The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, St.George Ft., Chennai-600 009
- 2 The Commissioner of Municipal Administration,
Chepauk, Chennai-600 005.
- 3 The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore -641 001.Respondents.

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus directing the 1st respondent to pass appropriate orders on the proposal of the 3rd respondent issued in Na.Ka.No.10540/2012/MC1 dated 30.03.2013 within a reasonable period as may be fixed by this Court.

For Petitioner : Mr.Vijay Narayanan, Senior Counsel
for Mr.T.Ranganathan
For R1 & R2 : Mr.M.S.Ramesh, AGP
for R1 & R2
For R3 : Mr.K.Magesh

O R D E R

The petitioner seeks a writ of mandamus directing the 1st respondent to pass appropriate orders pursuant to the proposal made by the 3rd respondent vide proceedings in Na.Ka.No.10540/2012/MC1 dated 30.03.2013.

THE FACTS

2. The petitioner joined the Municipal Service as Meter Reader in the year 1979. The petitioner was ultimately promoted to the post of Executive Engineer in 2007. The petitioner is eligible for

promotion to the post of Superintending Engineer and City Engineer. According to the petitioner the 3rd respondent is maintaining the seniority list of Engineers working in the local body as a unit. The 3rd respondent submitted a proposal to the Government on 30.03.2013, seeking permission to promote the Engineers who are presently working in the Corporation. It is grievance of the petitioner that during the currency of the said proposal, the respondents are taking steps to appoint on deputation to the post of City Engineer. The petitioner is therefore, before this court.

3. The 3rd respondent filed a counter affidavit, wherein, it was contented that qualified hands are not available to hold the post of City Engineer and that was the reason for taking action to make appointment on deputation.

SUBMISSIONS

4. The learned Senior Counsel for the petitioner contented that the Tamil Nadu Municipal Corporation Service Rules 1996 provides that each Municipal Corporation is a unit for the purpose of appointment, promotion, revision, transfer and discharge from service and as such it was not open to the respondents to take officers on deputation from another unit. The learned Senior counsel further contented that there are qualified persons now working in the Coimbatore Corporation for promoting them to the post of City Engineer and as such it was not proper on the part of respondents to call for applications for appointment on deputation.

5. The learned Standing counsel for the Coimbatore City Municipal Corporation submitted that the petitioner was placed under suspension and as such, he is not eligible presently to be promoted to the post of City Engineers. According to the learned counsel, none of the Engineers who are presently working in Coimbatore City Municipal Corporation are eligible to be promoted to the post of City Engineer on account of the pendency of disciplinary proceedings against them. The learned counsel submitted that it was only on account of exigency service, the Corporation resorted to the process of deputation.

DISCUSSION

6. There is no dispute that the 3rd respondent made a proposal to the 1st respondent on 30.03.2013 for giving promotion to the Engineers/Officers of the Corporation to the post of City Engineers and Superintending Engineers. It is also not in dispute that the Tamil Nadu City Municipal Corporation Service Rules 1996 provides for treating each Corporation as a unit for the purpose of appointment and promotion. It was only in the light of Rule 38 of the Rules, the 3rd respondent made a proposal to the 1st respondent. The said proposal is stated to be pending on the file of 1st respondent. The petitioner and similarly situated Engineers wanted promotion to the post of City Engineer. However, the Corporation has taken a

contention that on account of the disciplinary proceedings pending against the petitioner and similarly placed officers, it is not possible to consider them for promotion.

7. The question raised by the petitioner with regard to his right to claim promotion to the post of City Engineer is essentially an issue to be considered by the 1st respondent .

8. The 1st respondent is directed to consider and dispose of the proposal submitted by the 3rd respondent dated 30.03.2013, on merits and as per law. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

9. The third respondent is permitted to fill up the post of City Engineer on deputation, in case there are no eligible and qualified Engineers in Coimbatore Corporation to be promoted as City Engineer.

The Writ Petition is disposed of with the above direction. No costs. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

- 1 The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, St.George Ft., Chennai-600 009
- 2 The Commissioner of Municipal Administration,
Chepauk, Chennai-600 005.
- 3 The Commissioner, सतयमेव जयते
Coimbatore City Municipal Corporation,
Coimbatore -641 001.

+1 cc to Mr.T.Ranganathan, Advocate, SR.16420

+1 cc to Mr.K.Magesh, Advocate, SR.16215.

+1 cc to Government Pleader, SR.16370.

ctk(co)
krd 7/4

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