

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 01.09.2016

Pronounced on : 19-12-2016

CORAM :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Writ Petition Nos. 39480 of 2015

Writ Petition Nos. 24846 to 24849 of 2016

Madasamy ... Petitioner in WP 39480/15
G. Kamalakannan .. Petitioner in WP 24846/16
M. Swaminathan .. Petitioner in WP 24847/16
P. Sathyanathan .. Petitioner in WP 24848/16
R. Kamala ... Petitioner in WP 24849/16

Versus

1. The Secretary to Government
Municipal Administration and Water Supply Department
Fort St. George
Chennai - 600 009
2. The Secretary to Government
P & AR Department
Fort St. George
Chennai - 600 009
3. The Secretary
Tamil Nadu Public Service Commission
1, Fraser Bridge Road
VOC Nagar, Chennai - 600 003
4. Director of Municipal Administration
6th Floor, Ezhilagam Annexe
Chepauk, Chennai - 600 005
5. R. Vinoth
Assistant Section Officer
Municipal Administration and Water Supply
Department
Secretariat, Chennai - 600 009
6. R. Kamaraj
Assistant Section Officer
Municipal Administration and Water Supply
Department Secretariat, Chennai - 600 009
7. K. Sennu Krishnan
Assistant Section Officer
Municipal Administration and Water Supply
Department
Secretariat, Chennai - 600 009

8. J. Prem Anand
Assistant Section Officer
Municipal Administration and Water Supply
Department
Secretariat, Chennai - 600 009

9. A. Veeramuthukumar
Assistant Section Officer
Municipal Administration and Water Supply
Department
Secretariat, Chennai - 600 009

10. N. Dakshinamoorthy
Assistant Section Officer
Municipal Administration and Water Supply
Department
Secretariat, Chennai - 600 009

11. N. Sridevi
Assistant Section Officer
Municipal Administration and Water Supply
Department
Secretariat, Chennai - 600 009

12. M. Ajitha Barvin
Assistant Section Officer
Municipal Administration and Water Supply
Department
Secretariat, Chennai - 600 009

(R-5 to R12 were impleaded as per order
dated 16.02.2016 made in
WMP No. 4718 of 2016 .. Respondents in WP
in WP No. 39480 of 2015) No. 39480 of 2015

1. The Principal Secretary to Government
Municipal Administration and Water Supply Department
Fort St. George
Chennai - 600 009

2. The Secretary to Government
P & AR Department
Fort St. George
Chennai - 600 009

3. The Secretary
Tamil Nadu Public Service Commission
1, Fraser Bridge Road
VOC Nagar, Chennai - 600 003

4. Director of Municipal Administration
6th Floor, Ezhilagam Annexe .. Respondents in WP
Chepauk, Chennai - 600 005 No. 24846-24849/16

Petitions filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the first respondent relating to G.O. (3D) No. 17, MAWS Department dated 21.08.2015, quash the same and consequently direct the respondents to forthwith make the appointment to the post of Municipal Commissioner Grade as per the Tamil Nadu Municipal Commissioners Service and Tamil Nadu Municipal Commissioners Subordinate Service Rules, as framed under G.O. Ms. No.191, Municipal Administration and Water Supply (ME-1) Department dated 11.08.1999 as proposed by the fourth respondents letter dated 09.04.2015 and 16.06.2015 and allot the eligible vacancies to the ignored category i.e., three for Superintendents be fixed by this Court.

For Petitioner : Mr. P. Srinivas
in all the WRit Petitions

For Respondents : Mr. V.S. Sethuraman, Additional
Advocate General
assisted by Mr. A. Kumar, Special Govt.
Pleader
for RR1, 2 and 4 in WP No. 39480 of 2015
in all the WRit Petitions

Mr. M. Loganathan for R3/TNPSC

Mr. Vijaynarayanan, Senior Counsel
for Mr. T. Ranganathan for RR5 to 12
in WP No. 39480 of 2015

COMMON ORDER

The relief sought for in all these writ petitions are identical and similar. The learned counsel appearing on either side have advanced common arguments in all these writ petitions. Therefore, by their consent, the writ petitions are taken up for hearing together and are disposed of by this Common order.

2. The prayer in these writ petitions is to quash the order passed by the Government in G.O. (3D) No. 17, MAWS Department dated 21.08.2015 and for a consequential direction to the respondents to forthwith make appointment to the post of Municipal Commissioner as per the Tamil Nadu Municipal Commissioners Service and Tamil Nadu Municipal Commissioners Subordinate Service Rules, as framed under G.O. Ms. No.191, Municipal Administration and Water Supply (ME-1) Department dated 11.08.1999 and as proposed by the fourth respondent in his letters dated 09.04.2015 and 16.06.2015.

3. The petitioners in these writ petitions are working as Superintendent in the Municipal Administration Department. According to the petitioners, as per the Service Rules, the post of Superintendent is the feeder category for promotion to the post of Municipal Commisisoner, Grade II by recruitment by

transfer and they are eligible to be posted as Municipal Commissioner Grade II on transfer based on seniority. According to the petitioners, the post of Municipal Commissioner, Grade-II is governed by Special Rules for Tamil Nadu Municipal Commissioner Subordinate Service Rules. This Rule was amended by the Government by issuing GO Ms. No.191, Municipal Administration and Water Supply Department dated 11.08.1999 by which the post of Municipal Commissioner Grade-II shall be filled up from among the categories of (i) Direct recruitment through Tamil Nadu Public Service Commission (ii) Municipal Employees coming under Tamil Nadu Municipal General Service (iii) Assistant Section Officers working in the Secretariat (iv) Superintendents of Directorate of Municipal Administration, being ministerial service and (v) Executive Officers of the Town Panchayat which also comes under the Ministerial Service. According to the petitioners, the ratio in which the 20 vacancies are to be distributed among the feeder categories are (i) five vacancies prescribed for recruitment from open market through the Tamil Nadu Public Service Commission (ii) four vacancies for the Assistant Section Officers working in the Secretariat (iii) three vacancies for the Superintendent working in the office of the Directorate of Municipal Administration (iv) two for the Executive Officers of the Town Panchayat and (v) six vacancies for Municipal Employees. It is the case of the petitioners that a twenty point rotation is prescribed under Rule 2 (c) of the Special Rules for Tamil Nadu Municipal Commissioner Subordinate Service for distribution of the vacancies to the post of Municipal Commissioner, Grade-II and it is designed in such a manner that the vacancies are distributed evenly with appropriate interval so that none of the employees in the feeder categories have to wait for all the 20 vacancies to arise. Thus, a roaster is kept according to the twenty point rotation and whenever vacancies arises, it is distributed evenly to the next feeder category in the roaster. As per the provision to Rule 2 of the Special Rules, if for any reason, an officer is not available for conferring the promotion as and when his turn comes, the turn will lapse and the vacancy shall be filled by an incumbent from the other category. In this fashion, till 2014-2015, the roaster has been followed and exhausted to the turn of 207. The next turn is 208 and the vacancy falls to the municipal employees as per the rotation. Therefore, for the year 2015-2016, the number of vacancies estimated in the post of Municipal Commissioner Grade-II is 20 and the roaster begins at 208 and ends at 227.

4. The learned counsel for the petitioners would contend that at present, the cadre strength of Municipal Commissioner Grade-II is 48. However, instead of following the roaster system as per the Rules, the first respondent proposed to fill up the vacant posts by giving a proportional representation to different categories by counting the serving incumbents in the Grade-II Municipal Commissioner post and proposed to appoint the incumbents. Therefore, according to the learned counsel for the petitioners, the first respondent has gone on to fix an arbitrary number for appointment from the respective

categories, by taking a quota for each category which is in gross violation of Rule 4 of the General Rules. The vacancies, according to the learned counsel for the petitioners, must be estimated and roaster has to be applied for appointment. The learned counsel for the petitioners also brought to the notice of this Court that the fourth respondent, in his letters dated 09.04.2015 and 16.06.2015 has submitted proposal to the first respondent to make appointment to the post of Municipal Commissioner Grade-II on the basis of roaster system and in spite of the same, the first respondent, without following the Rules and application of the roaster system, has proposed to make appointment by taking the total strength as estimated vacancy and the ratio to each category has been fixed disproportionately and arbitrarily. According to the learned counsel for the petitioners, whenever a vacancy arises in the post of Municipal Commissioner Grade-II, such vacancies shall be carried forward to the next category in the rotation. However the impugned order has been issued by applying unknown and unreasonable logic in gross violation of Rules. It is specifically pointed out by the learned counsel for the petitioner that for the year 2014-2015, a proposal was sent indicating the estimated vacancy but it was ignored by the first respondent.

5. It is mainly contended by the learned counsel for the petitioners that Rule 2 (c) (iii) of Special Rules for Tamil Nadu Municipal Commissioner Subordinate Service indicates that appointment to the post of Municipal Commissioner, Grade-II shall be made in the ratio of 6 : 5 : 9 in the cycle indicated therein which corresponds to 20 point distribution provided in the Rules. While so, for the current year 2015-2016 also, the official respondents once again proposed to fill up the vacancies by violating the Rules and adopted a procedure to fix quota in the cadre strength and thus excluded the participation of the two categories of Superintendents from the office of the fourth respondent as well as the direct recruits from the open market. In this context, the Government has issued the impugned order furnishing the estimated vacancy which is per se arbitrary. The estimates made in the impugned order allotting 5 vacancies to direct recruits had deprived the opportunity of the petitioners and therefore he prayed for setting aside the impugned order. According to the learned counsel for the petitioners, hitherto, apportionment of vacancies to the feeder categories has been made only as per the 20 point rotation prescribed under Rule 2 (C) (iii) of the Special Rules and by contravening the same, the impugned order has been issued.

6. The learned Additional Advocate General appearing for the official respondents would oppose the writ petitions filed by the petitioners. By placing reliance on the vacate stay petition filed in WP No. 39480 of 2015, it is contended that the post of Municipal Commissioner, Grade-II is an entry level post in the Tamil Nadu Municipal Commissioners Subordinate Services. As per the Special Rules for Tamil Nadu Municipal Commissioners Subordinate Services, the appointment to the service is made in the ratio of 6 : 5 : 9 by (i) direct

recruitment (ii) from open market and (iii) by recruitment by transfer from among the Executive Officers of the Town Panchayat, Assistant Section Officers attached to the Secretariat Service and (iii) Superintendent from the Directorate of Municipal Administration. As regards the 20 point roster, it is contended by the learned Additional Advocate General that it is meant for fixing the seniority of the individuals appointed in the post of Municipal Commissioner Grade-II and it has nothing to do with the distribution of vacancies which are filled up in the ratio of 6 : 5 : 9 as per the Rules without exceeding the cadre strength prescribed in Rule 2 of Tamil Nadu Municipal Commissioner Subordinate Services. According to the learned Additional Advocate General, when an appointment is made from various categories, the vacancies are to be filled up only by the ratio and the roster has nothing to do with the appointment. The roster has to be applied and/or adopted only for the purpose of fixing the inter-se seniority among those categories in the post in which they were appointed. Even as per the proviso to Rule 2 of the Special Rules, where for any such turn, an officer of the required category is not available, the turn will lapse and the vacancy shall be filled by an incumbent from other category. An incumbent will lapse the turn due to variety of reasons including pendency of disciplinary proceedings, currency of punishment, retirement etc.,

7. As regards the estimated vacancies for the year 2014-2015, there were 18 vacancies and it ended in 209th turn. Therefore, for the year 2015-2016, the roster begins with 210 and ends at 229 and not 208th and ends with 227th as averred by the petitioners. The learned Additional Advocate General would contend that the estimated vacancies should be filled up without exceeding the cadre strength. At present, the working cadre strength in the category of Open Market, Superintendents and Executive Officers exceeded their permitted cadre strength and hence, the estimated 20 vacancies for the current year (2015-2016) has to be apportioned by giving preference to recruitment from open market and thereafter in the order of preference namely Assistant Section Officer, Superintendent, Executive Officer and Municipal Employees. This is more so that during the year 2014-2015 estimate of vacancy was arrived at 18 and it was apportioned to open market category as 'Nil' taking into account that the present working cadre strength of open market category is 22 and it exceeds the permitted strength of 12. In fact, as against this estimated vacancy, one Janakiraman has filed WP (MD) No. 16728 of 2014 to quash the Government Order in which the estimate of vacancies was approved. This Court, by an order dated 28.01.2015, dismissed the writ petition by holding that when already the number of estimated vacancies in the open market quota are above the prescribed ratio namely 20 as against 12, the respondents are justified to restrict the present vacancies for other categories other than Open market quota and it does not call for any interference. According to the learned Additional Advocate General, the ratio fixed in the Special Rules was followed by the official respondents while conferring

appointment to the post of Municipal Commissioner Grade I or II as the case may be and the roster system was also duly followed. Therefore, the learned Additional Advocate General only prayed for dismissing the writ petitions as devoid of merits.

8. The learned Additional Advocate General appearing for the official respondents has brought to the notice of this Court the proceedings dated 30.06.2016 of the Commissioner of Municipal Administration wherein it is stated as follows:-

"I am to state that as per Rule 6 (11) of Municipal Commissioners Service Rules, the Superintendents who has completed five years of service in the post of Superintendent shall be appointed as Municipal Commissioner Grade-I on deputation basis for the period of two years and at a time three Superintendents shall be deputed as Municipal Commissioner Grade-I.

Further, I am to state that at present two Superintendents are working as Municipal Commissioner Grade-I on deputation basis. The deputation period of Thiru. P.V. Chandrasekaran, Superintendent will expire on 11.07.2016. Necessary proposals have been sent to Government to revert back him to the parent unit i.e., Commissionerate of Municipal Administration vide this office letter cited. Therefore, two Superintendents may be considered for the appointment of Municipal Commissioner Grade-I on deputation basis.

According to seniority the following Superintendents who have completed five years of service in the post of Superintendent are considered for the appointment of Municipal Commissioner Grade-I on deputation basis (copy enclosed)

9. Thus, as per the proceedings dated 30.06.2016 of the Commissioner of Municipal Administration, the Petitioner in WP No. 39480 of 2015 and the Petitioner in WP 24849 of 16 have been ordered to be considered for appointment to the post of Municipal Commissioner, Grade-I on deputation basis and therefore, the relief sought for by the petitioners in WP No. 39480 of 2015 and 24849 of 2016 no longer survives for consideration by this Court.

10. The learned counsel appearing for the third respondent/Tamil Nadu Public Service Commission would only contend that the third respondent is a formal party to this writ petition and the seniority is determined by the Commission only at the time of appointment to the post through open market for the direct recruits and therefore, the Commission is no way connected with the inter se seniority between the petitioners and the private respondents.

11. The learned counsel appearing for the respondents 5 to 12 in WP No. 39480 of 2015, who were subsequently impleaded in WP No. 39480 of 2015, would contend that the respondents 5 to

12 have been appointed in the Secretariat as Assistant Section Officers in Municipal Administration and Water Supply Department. For appointment to the post of Municipal Commissioner Grade-II, the Rule provide for a twenty point rotation as per which out of every 20 vacancies, 6 vacancies will be earmarked for Municipal Employees, 5 for direct recruits and 9 posts meant for appointment from among the three feeder category posts namely Superintendents working in the office of the Directorate of Municipal Administration, Assistant Section Officers and Executive Officers of the Town Panchayat. Out of the 9 vacancies, 4 vacancies are apportioned for Assistant Section Officers, 3 for Superintendents and 2 for Executive Officers of Town Panchayat. According to the learned counsel, the object of the roaster system is to ensure adequate representation of each of the feeder categories while conferring promotion. When adequate representation is achieved in one of the categories, the application of the roaster has to be stopped and the remaining vacancies to be filled from the other categories which are unrepresented. Applying the aforesaid principle, the first respondent has rightly passed the order in G.O. (3D) No. 17, MAWS Department dated 21.08.2015 apportioning 8 vacancies to Assistant Section Officers from the Secretariat Services, who were earlier unrepresented. Thus, if the roaster system is to be followed strictly and if appointments could not be made from among a particular feeder categories for variety of reasons, the other categories would have to wait until an eligible person is given promotion.

12. I heard the learned counsel on either side and perused the materials placed on record. The question arise for consideration in these writ petitions is whether the order passed by the Government in G.O. (3D) No. 17, Municipal Administration and Water Supply (ME.1) Department dated 21.08.2015 fixing the estimated vacancies is proper. As per the Government Order dated 21.08.2015, the Government accepted the recommendations made by the Director of Municipal Administration and eventually ordered that the total number of vacancies estimated for the year 2015-2016 is 20. Out of this 20 vacancy, 5 posts were apportioned to the candidates selected by Tamil Nadu Public Service Commission through direct recruitment; 8 for those who are holding the post of Assistant Section Officers in the Secretariat service and the remaining 7 for Municipal employees.

13. The petitioners in all these writ petitions are working as Superintendents in the Directorate of Municipal Administration. The petitioners admit that the appointment to the post of Municipal Commissioner is governed by the Special Rules for Tamil Nadu Municipal Commissioner Subordinate Services which were amended by the Government by virtue of G.O. Ms. No.191, Municipal Administration and Water Supply Department dated 11.08.1999. Even as admitted by the petitioners, appointment to the post of Municipal Commissioner can be made and/or filled up from among the five feeder categories namely (i) candidates appointed by Direct Recruitment by the Tamil Nadu Public Service Commission in a

post which is the feeder category for appointment to the post of Municipal Commissioner (ii) Municipal Employees working in the Tamil Nadu Municipal General Services (iii) Assistant Section Officers attached to Secretariat services (iv) Superintendents attached to the office of the Directorate of Municipal Administration and (v) Executive Officers working in the Town Panchayats.

14. The grievance of the petitioners is that the official respondents, while apportioning the estimated vacancies, have not taken into consideration the eligible Superintendents like the petitioners for appointment to the post of Municipal Commissioner Grade-II by erroneously applying the 20 point roaster system. According to the petitioners, as per the roaster, the last candidate appointed in the year 2014-2015 was in the 208th turn and it ended with 227th turn. Therefore, the roaster has to begin from the 228th turn for further appointment to the post of Municipal Commissioner. However, this averment of the petitioners has been denied as incorrect by the official respondents by stating that in the year 2014-2015, there were only 18 vacancies and it ended in 209th turn. Therefore, for the year 2015-2016, the roaster has to begin with 210th turn and ends at 229th turn. In any event, according to the respondents the roaster system has been introduced to ensure adequate representation of each of the feeder categories while conferring promotion without leaving any of the categories unrepresented and it has nothing to do with the estimating the vacancies.

15. For the purpose of analysing the above aspect as to whether the roaster system has been properly followed or not, it is necessary to appraise the affidavits filed in support of the respective writ petitions as well as the counter affidavit filed by the official respondents in the form of vacate stay petition. It is categorically stated in the vacate stay petition filed by the official respondents that the 20 point roaster is being followed for the purpose of placing the relevant seniority of the individuals appointed in the post of Municipal Commissioner Grade-II and distribution of vacancies which are filled up in the ratio of 6 : 5 : 9 without exceeding their respective cadre strength as prescribed in Rule 2 of the Tamil Nadu Municipal Commissioner Subordinate Services. In other words, according to the official respondents, the roaster system is being followed for the purpose of fixing the inter se seniority among those who were appointed to the post of Municipal Commissioner and it has nothing to do with the estimation of vacancies which varies from year to year on the basis of the cadres who were unrepresented or poorly represented during the previous year. Therefore, taking this aspect into consideration, the official respondents have prepared the estimated vacancies which is based on established procedures hitherto followed by them.

16. It is seen from the records that as per Rule 6 (ii) of Municipal Commissioners Service Rules, those who are holding the post of Superintendents and who have completed five years

of service in the post of Superintendent shall be appointed as Municipal Commissioner Grade-I on deputation basis for two years and at a time three Superintendents can also be deputed as Municipal Commissioner Grade-I. Keeping in view this Rule position, the Commisisoner of Municipal Administration, in his proceedings dated 30.06.2016 has recommended to the Government to consider those who have completed five years of service in the post of Superintendents for appointment to the post of Municipal Commisisoner Grade-I on deputation basis. In the said proceedings dated 30.06.2016, the name of the Petitioners in WP Nos. 39480 of 2015 and 24849 of 2016 have been included in the annexure to the said proceedings for consideration for being appointed to the post of Municipal Commissioner Grade-I.

17. In the counter affidavit, the estimated 20 vacancies arrived for the year 2015-2016 has been tabulated. As per the tabulations, 5 posts were earmarked for the candidates recruited from open market, 8 posts for Assistant Section Officer and 7 posts for Municipal Employees. Thus, estimates for the posts of Superintendents and Executive Officers of the Town Panchayat was drawn as 'nil'. If we take into account the estimated vacancy for the year 2014-2015, it was in the region of 6 for Municipal Employees, 5 for directly recruited candidates from open market through the Tamil Nadu Public Service Commission and 9 for those who are eligible for recruitment by transfer. Such estimated vacancy arrived at by the official respondents for the year 2014-2015 was subjected to challenge before this court in WP (MD) No. 16728 of 2014. The issue which arose for consideration before this Court in WP (MD) No. 16728 of 2014 was identical and similar with this writ petition. By order dated 28.01.2015 passed in WP (MD) No. 16728 of 2014, this Court, while dismissing the writ petition held as follows:-

"4. I see considerable force in the submissions of the learned Additional Advocate General as the same carry more merit. Even though the petitioner has filed a reply affidavit by refuting the details relating to the number of vacancies and the mode adopted by the respondents to fill up the same, the break-up figures furnished by the petitioner cannot be taken as such, since the particulars are not supported by any authentic material or official endorsement. In fact, the claim of the petitioner in the reply affidavit with reference to material particulars varies from that of the affidavit filed in support of the writ petition. Be that as it may, as per Rules, in particular Rule-2 of the Special Rules, the vacancies are to be filled up in the ratio of 6:5:9 viz., Municipal Employees-6, through TNPSC-5 and Recruitment by Transfer-9, without exceeding their respective cadre strength. It must be pointed out that the Special Rules do not provide that the vacancies shall be allotted on rotation basis and, to be more clear, Rule-2 only prescribes the ratio for the categories. According to the learned Additional Advocate General, in the year 2013, as against the

sanctioned cadre strength of 12 under the Open Market Quota, the candidates under the said Quota were 20, which prompted the other category people to represent to the Government to strictly maintain the ratio without showing any undue favour to any category more than the ratio prescribed. That is why, the 18 vacancies that arose in 2014-15 were allocated to other categories in strict adherence to the mode and ratio prescribed in Rule-2 of the Special Rules. This Court endorses the clarification made by the learned Additional Advocate General that the existing incumbents in the post of Municipal Commissioner Grade-II under the Open Market Category are likely to be promoted as Municipal Commissioner Grade-I during the next panel year 2015-16 after completion of their probation, whereupon, the cadre strength will eventually fall below their permitted limit of 12 and thereafter, the accruing vacancies against the ratio will be filled up only with the candidates from the Open Market. Having regard to the personal grievance of the petitioner, it must be pointed out that the procrastination on the part of the petitioner in endeavouring to make only the final attempt at the fag end of the qualification period, that is at the age of 29, cannot be cited as a ground to assail the Government Order. Thus, when already the number of candidates under the Open Market Quota are above the prescribed ratio viz., 20 against 12, which necessitated the Authorities to restrict the present vacancies for the categories other than the Open Market Quota and further, in the light of the clarification made before this Court by the learned Additional Advocate General that quota under the Open Market would be duly allocated in the next panel year i.e., 2015-16 owing to the fall down of the Open Market Category candidates below the permitted limit of 12 at that time, the petitioner cannot have any grievance and this Court finds no error or illegality in the impugned Government Order for setting aside the same.

5. In fine, Writ Petition fails and the same is dismissed as devoid of any merit. No costs. Connected Miscellaneous Petitions stand closed."

18. In the above order, it was held by this Court that the Special Rules do not provide that the vacancies shall be allotted on rotation basis and Rule 2 only prescribes the ratio for the categories. I respectfully agree with the order passed by this Court mentioned above and holds that the petitioners cannot have any grievance either with the drawal of the estimated vacancies or the adherence to roaster system which is not provided under Rule 2 of the Special Rules. As rightly pointed out on behalf of the respondents, the roaster system is only a device for equal distribution of the available vacancies and to see that none of the categories of employees in the feeder categories for promotion to the post of Municipal

Commissioner are left unrepresented. Furthermore, as per the proceedings dated 30.06.2016 of the Commissioner of Municipal Administration, the name of the Petitioners in WP Nos. 39480 of 2015 and 24849 of 2016 have been included in the annexure to the said proceedings for being considered for appointment to the post of Municipal Commissioner Grade-I. Therefore, the petitioners in WP Nos. 39480 of 2015 and 24849 of 2016 may not have any grievances to be ventilated over the manner in which promotions and/or appointments are being made by the official respondents. Further, in the said proceedings dated 30.06.2016, reference was made to the pendency of disciplinary proceedings against Thiru. S. Kanagamayilraj who was in serial No.1 of the annexure to the said proceedings and therefore his claim was not considered. Similarly, the persons whose names are included in Serial No. 2 has expressed her unwillingness to work as Municipal Commissioner Grade-I on deputation basis. Unfortunately, this proceedings dated 30.06.2016 has not been brought to the notice of this Court by the petitioners at the time of argument of the writ petitions and it is brought to the notice of this Court only by the respondents.

19. As regards the Order passed in G.O. (3D) No.17, Municipal Administration and Water Supply Department dated 21.08.2015, in my considered opinion, the Government has only approved the estimated vacancy for the post of Municipal Commissioner, Grade-II for the year 2015-2016 at 20. The vacancy so arrived at was based on the proposal sent by the Director of Municipal Administration. In the note appending to the tabular column in the Government Order dated 21.08.2015, it is clearly indicated as against the feeder categories holding the post of Executive Officers that "cadre strength of the respective category is full at present and during 2015-2016 and hence vacancies are re-apportioned to other category". As against the Superintendents working in the office of the Directorate of Municipal Administration, it was indicated that "cadre strength of the respective category already exceeds at present and hence no recruitment can be made during the estimate year until the category falls below the prescribed cadre strength". Therefore, it is evident that the Government, in an attempt to ensure equal distribution of the promotional post and to confer such promotions to those who are unrepresented during the previous year, has rightly distributed the number of vacancies in the order of rotation. Further, as mentioned above, the very same question came up for consideration before this Court when an estimated vacancy was drawn for the year 2014-2015 and this Court, passed the order dated 28.01.2015 in WP (MD) No. 16728 of 2014 dismissing the writ petitions by categorically pointing out that Rule 2 of the Special Rules does not provide for vacancies to be allotted on rotation basis. Therefore, in the light of the earlier order passed by this Court mentioned above and on appreciation of the factual aspects indicated above, this Court finds no reason to interfere with the order which is impugned in these writ petitions.

20. In the result, all the writ petitions are dismissed.
No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

rsh

To

1. The Secretary to Government
Municipal Administration and Water Supply Department
Fort St. George
Chennai - 600 009
2. The Secretary to Government
P & AR Department
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3. The Secretary
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1, Fraser Bridge Road
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4. Director of Municipal Administration
6th Floor, Ezhilagam Annexe
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2 ccs to Mr.P. Srinivas, Advocate, Sr. 74127
1 c to Mr.T. Renganathan, Advocte, Sr. 73931
2 ccs to Mr.M. Loganathan, Advocate, Sr. 73929
1 cc to Government Pleader, Sr. 74087

WP No. 39480 of 2015 and
WP Nos. 24846 to 24849 of 2016

AD (CO)
kk 30/12