

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.11.2016
CORAM:
THE HONOURABLE MR.JUSTICE R.SUBBIAH
W.P.No.5815 of 2015
and
M.P.No.1 of 2015

M.Kannan

.. Petitioner

Vs.

1. The State of Tamil Nadu
rep. by its Secretary,
Municipal Administration and
Water Supply Department,
Fort St.George, Chennai-9.
2. The Director of Municipal Administration,
Chepauk, Chennai-600 005.
3. The Commissioner,
Vellore City Municipal Corporation,
Vellore District.
4. A.Janakiraman,
Senior Town Planning Officer,
Nagercoil Municipality, Nagercoil.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for records relating to second respondent's proceedings made in Roc.No.19709/2014/TP.1, dated 13.02.2015, quash the same insofar as the petitioner is concerned and to consequently direct the respondents 1 to 3 to retain the petitioner in the third respondent-Municipal Corporation by giving effect to the proposal of the second respondent made in Na.Ka.No.45581/2012/Ma.Na.Aa1, dated 24.07.2013 and to extend all benefits including re-designation as Executive Engineer and other promotional prospects forthwith thereto.

For Petitioner : Mr.L.Chandrakumar for
Ms.N.R.Jasmine Padma

For Respondents: Mr.S.N.Parthasarathi,
Govt. Advocate for RR-1 & 2
Mrs.P.Shanthi for R-3

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for records relating to second respondent's proceedings made in Roc.No.19709/2014/TP.1, dated 13.02.2015, quash the same insofar as the petitioner is concerned and to consequently direct the respondents 1 to 3 to retain the petitioner in the third respondent-Municipal Corporation by giving effect to the proposal of the second respondent made in Na.Ka.No.45581/2012/Ma.Na.Aa1, dated 24.07.2013 and to extend all benefits including re-designation as Executive Engineer and other promotional prospects forthwith thereto.

2. It is the case of the petitioner that he possesses B.E. (Civil) and was appointed as Town Planning Officer--Grade-II under the Municipal Service Rules; thereafter he was promoted as Town Planning Officer--Grade-I during 2000, in which post, he was upgraded as Special Grade during 2004 and transferred to the then Vellore Municipality during 2006, where he continued upto 01.08.2008, on which date, the Vellore Municipality was upgraded as Vellore City Municipal Corporation and thereby, he is holding the post of Senior Grade Town Planning Officer in the said Corporation. It is the petitioner's further case that his service conditions are governed by the Tamil Nadu Municipal Corporation Services Rules. While so, by impugned proceedings dated 13.02.2015 in Roc.No.19707/2014/T.P.I of the second respondent, he had been transferred to Nagercoil Municipality on administrative grounds. It is the grievance of the petitioner that the said transfer order adversely affects his accrued service conditions and also his legitimate expectation of further promotional prospects to various hierarchy of posts in the Municipal Corporation.

3. The petitioner challenges the transfer order both on administrative grounds and on non-application of mind. It is the further case of the petitioner that invocation of Rule 31(c) of the Tamil Nadu Municipal Town Planning Services Rules, has no applicability to the case of the petitioner. Hence, the impugned order is liable to be quashed. Therefore, the petitioner has filed the above Writ Petition for the relief stated supra.

4. The third respondent has filed counter affidavit stating that the Director of Municipal Administration (second respondent) is the appointing authority for the post of Town Planning Officer. The petitioner is designated as Senior Grade Town Planning Officer and he is transferred into the same category of Senior Grade Town Planning Officer. He is not re-designated as per Corporation Service Rules. Hence, the second respondent-Director of Municipal Administration is the competent

authority to issue transfer orders, when necessity arises on administrative grounds. It is further stated that though Vellore Municipality had been upgraded as a Corporation with effect from 01.08.2008, it is still functioning with the staff under the Municipal Service Rules. The sanction of posts as per the Corporation Service Rules and re-designation of erstwhile Corporation staff, are yet to be permitted. Hence, transferring a Town Planning Officer from Corporation to Municipality is within the vested powers of the appointing authority, i.e the second respondent-Director of Municipal Administration. It is further stated that the petitioner is designated as Senior Town Planning Officer and the Vellore Corporation is expecting the Government Orders for the re-designation of existing staffs into Corporation Service Rules and the proposal is under consideration by the Government. Hence, the third respondent prayed for dismissal of the Writ Petition.

5. Though the Writ Petition is filed for larger relief, at the time of hearing, learned counsel for the petitioner submitted that the petitioner would be satisfied if a direction is issued to the first respondent to pass appropriate orders on the proposal, dated 24.07.2013, already sent by the second respondent to the first respondent, for sanctioning of necessary posts in the Vellore City Municipal Corporation.

6. In view of the above submission, this Court directs the first respondent to pass appropriate orders on the above said proposal sent by the second respondent, in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

7. With the above observations and directions, the Writ Petition is disposed of. No costs. Consequently, the miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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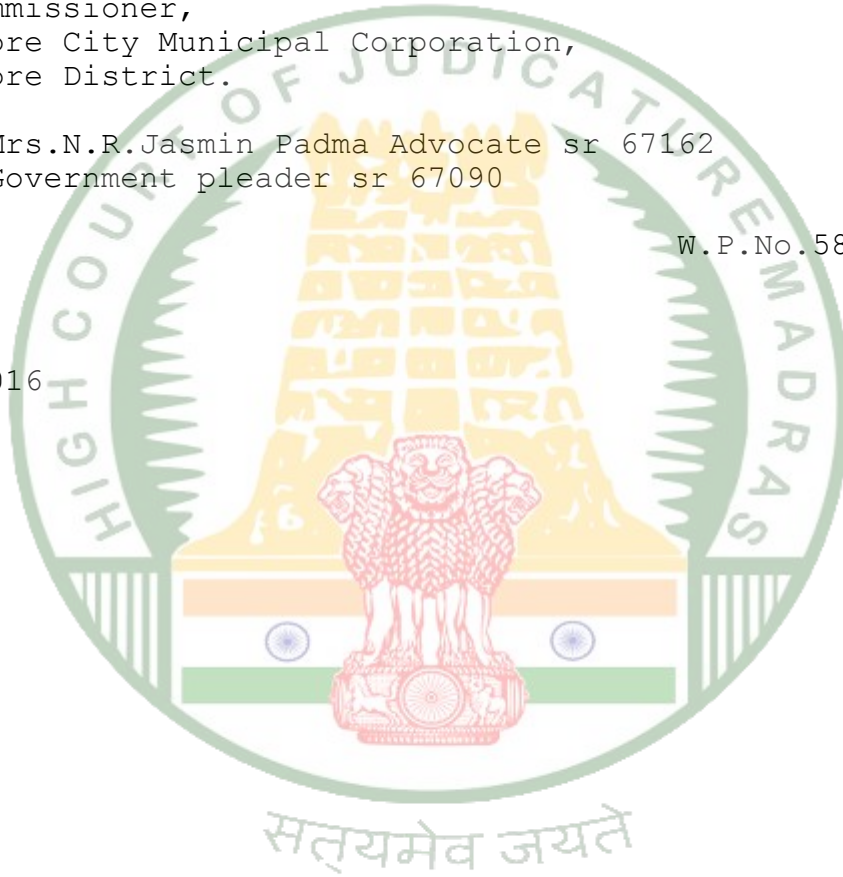
Copy to

1. The Secretary,
Municipal Administration and
Water Supply Department,
Fort St.George, Chennai-9.
2. The Director of Municipal Administration,
Chepauk, Chennai-600 005.
3. The Commissioner,
Vellore City Municipal Corporation,
Vellore District.

+1 cc to Mrs.N.R.Jasmin Padma Advocate sr 67162
+1 cc to Government pleader sr 67090

W.P.No.5815 of 2015

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