

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.30404 of 2016
and
W.M.P.No.26352 of 2016

R.Palanichamy

... Petitioner

Vs.

The Commissioner of Municipality,
Gobichettipalayam Municipality,
Gobichettipalayam, Erode District. Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 02.03.2016 and to promote the petitioner to the post of Sanitary Supervisor in the Gobichettipalayam Municipality or in any other Municipality, where there is vacancy to the post of Sanitary Supervisor.

For Petitioner : M/S.Dr.R.Gouri

For respondent : Mr.S.Gunasekaran, AGP

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 02.03.2016, with regard to the petitioner's request to promote him to the post of Sanitary Supervisor in the Gobichettipalayam Municipality or in any other Municipality, where there is vacancy to the post of Sanitary Supervisor.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1.The petitioner has been appointed as Sanitary Worker in the respondent-Municipality on 16.05.2006. The petitioner has completed pre-foundation course from the Annamalai University, which is recognised as equivalent to 10 years SSLC of the Tamil Nadu Government for the purpose of entering into public service, as per G.O.Ms.No.528, Personnel and Administrative Department.

2-2.It is further stated by the petitioner that as per Regulation 9(b) of the Tamil Nadu Municipal (Non-Centralized Regular) Public Health Establishment Regulations, 1976, a pass in III Form or VIII Standard from a recognised school, is a minimum qualification for the appointment to the post of Sanitary Supervisor. As far as the post of Sanitary Worker being the feeder category is concerned, a candidate, who is acquiesced with reading and writing, is qualified to be appointed. Admittedly, the petitioner has completed pre-foundation course from the Annamalai University and as such, by order dated 29.12.2010 passed by the respondent, the petitioner was promoted to the post of Sanitary Supervisor during the year 2010 and for the past four years, the petitioner was discharging his duties as Sanitary Supervisor in the respondent-Municipality.

2-3.While so, one Viswanathan had filed a writ petition in W.P.No.13642 of 2011, challenging the order dated 29.12.2010 passed by the respondent-Municipality promoting the petitioner as Sanitary Supervisor and thereby, he sought for a direction to respondent-Municipality to promote him (Viswanathan) to the said post. The petitioner has been appointed as Sanitary Worker on 16.5.2006 and the said Viswanathan has been appointed as Sanitary Worker on 02.05.2008. The petitioner has completed pre-foundation course from the Annamali University, which is recognised as equivalent to 10 years SSLC of the Tamil Nadu Government for the purpose of entering into public service. The said Viswanathan is a 10th standard failed candidate. The petitioner has vehemently contested the writ petition. This Court by order dated 18.03.2014 has allowed the said writ petition on the ground that he has not possessed requisite education qualification and thereby, impugned order promoting the petitioner to the post of Sanitary Supervisor was set aside. Aggrieved by the same, the petitioner has filed a Writ Appeal in W.A.No.1023 of 2014 and this Court by order dated 20.08.2014 dismissed the said appeal, with liberty to the petitioner to make a request to the respondent-Municipality to consider his continuance in the post of Sanitary Worker/Sanitary Supervisor without disturbing his pay scale; further, the liberty was also given to the petitioner to seek permission to attend SSLC public examination in future.

2-4.Pursuant to the order passed in the writ appeal, the petitioner once again pursued his pre-foundation course in Madurai Kamaraj University, which he discontinued earlier, and appeared in the remaining papers to complete the course. The petitioner has cleared the remaining subject papers and passed the course and to that effect a Certificate was also issued by the Madurai Kamaraj University on 15.04.2015. The Pre-Foundation Course of the Madurai Kamaraj University is recognised as equivalent to 10th Std (10 years SSLC) of the

Government of Tamil Nadu, Foundation Course 1 year as equivalent to 11th Std (11 years Old SSLC/Matriculation Examination) of the Government of Tamil Nadu and Foundation Course II year as equivalent to 12th Std. (Higher Secondary plus two course) of the Government of Tamil Nadu Hr. Sec. Course.

2-5.The petitioner submitted series of representations to the respondent-Municipality appraising the above facts pertaining to the petitioner's service on record and his educational qualification, seeking to promote him to the next avenue of promotion to the post of Sanitary Supervisor. It is further stated by the petitioner that one post of Sanitary Supervisor is vacant in Gobichettipalayam Municipality, Gobichettipalayam and the petitioner is willing to join in any other Municipality, where there is vacancy to the post of Sanitary Supervisor. The petitioner has given a representation dated 2.3.2016 to the respondent, reiterating his request for promotion. Since the petitioner's representation was not considered by the respondent, the petitioner has come forward with the present writ petition before this Court.

3.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

4.Considering the facts and circumstances of the case and taking note of the limited scope of the prayer sought for in this writ petition, this Court directs the respondent to consider the representation dated 02.03.2016 given by the petitioner and to 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. It is made clear that this Court has not expressed any opinion on the merits of the claim made by the petitioner and it is for the respondent to consider and pass orders only on merits and in accordance with law.

With the above directions, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Municipality,
Gobichettipalayam Municipality,
Gobichettipalayam, Erode District.

+1cc to Mr.R.Gowri, Advocate Sr. 54295

W.P.No.30404 of 2016
and
W.M.P.No.26352 of 2016

lrs [col]
srg 12/11/2016



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