

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32123 of 2016

K.Maheswari

... Petitioner

...vs...

1. Government of Tamil Nadu,
Represented by Secretary to Government
Municipal Administration and Water Supply Department
Secretariat
Chennai-600 009.
2. The Commissioner of Municipal Administration
Chepauk,
Chennai-600 015.
3. The Municipal Commissioner
Tiruvannamalai Municipality
Tiruvannamalai
Tiruvannamalai District. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to consider the claim of the petitioner for appointment as Junior Assistant/Revenue Assistant either by promotion or by transfer of service and by granting necessary relaxation of Rule in her favour and promote her as such in Tiruvannamalai Municipality or in any other Municipality in Tiruvannamalai District.

For Petitioner	:	Mr.J.Muthukumaran
For Respondent	:	Mr.S.Ramesh Additional Government Pleader

O R D E R

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

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to consider the claim of the petitioner for appointment as Junior Assistant/Revenue Assistant either by promotion or by transfer of service and by granting necessary relaxation of Rule in her favour and promote her as such in Tiruvannamalai Municipality or in any other Municipality in Tiruvannamalai District.

3. It is the case of the petitioner is that he belongs to Backward Class and was initially appointed as Women Helper in the Public Health Wing of Tiruvannamalai Municipality through Employment Exchange, Vellore vide proceedings of the third respondent dated 04.06.1989, based on the Resolution No.28 of the Appointment Committee dated 04.05.1989. The petitioner joined the service on 08.05.1989 A.N. later on, he was appointed as Office Assistant from 13.10.1993 and served in the said post. At the time of his initial appointment, he had completed S.S.L.C.(New Pattern-10th standard) and after joining service, with a view to get further promotion, the petitioner passed S.S.L.C.(X Standard) Examination in April 1993. Subsequently, he acquired M.A.Degree (History) qualification through Annamalai Univeristy in December 1997 and also passed the Departmental tests viz., Constitution of India, Madras District Municipalities Act 1969 and Office Manual Test. Since, the petitioner was governed by the Tamilnadu Muncipal (Non-Centralized Regular) Public Health Establishment Regulation, 1976, he submitted a representation dated 24.08.2007 to the Municipal Commissioner, Tiruvannamalai, requesting to promote him as Santiary Supervisor (Post included in Category II of the Establishment), as he possessed the requisite qualification prescribed in the above regulations. As the same was not considered, the petitioner submitted a representation dated 20.09.2011, to the Commissioner of Municipal Administration, Chennai, requesting to grant promotion as Revenue Assistant in Tiruvannamalai Municipality. As the same did not evoke any response, the petitioner made written representation dated 26.05.2014 to the Muncipal Commissioner Tiruvannamalai, reiterating his earlier claim for promotion as Revenue Assistant. The Municipal commissioner, Tiruvannamalai vide proceedings dated 4.8.2014 informed the petitioner that there is no provision in the service regulation for promoting an office Assistant attached to Tamil Nadu Muncipal (Non Centralized) Regular Public Health Establishment Regulation 1976, as Revenue

Assistant coming under Tamilnadu Municipal General Service Rule 1970. Since, petitioner stagnated in the post of Office Assistant from 1989 onwards without any promotion, he submitted a representation dated 05.08.2015, to the Commissioner of Municipal Administration, narrating the above facts and requesting to pass orders for his promotion as Revenue Assistant/Record Clerk or Sanitary Supervisor in Tiruvanamalai Municipality or in any other Municipality in Tiruvanamalai District. By subsequent representation dated 10.08.2016, he confined his prayer for Revenue Assistant/Record clerk. But, the same was not considered so far. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

3. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who has taken notice on behalf of the respondent.

4. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the petitioner to submit fresh representation to the respondents concerned along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order and on such representation being made, the respondents are directed to consider the same and pass appropriate 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 with regard to the claim projected by the petitioner and it is for the respondents to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

Sd/-

सत्यमेव जयते
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. Government of Tamil Nadu,
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3. The Municipal Commissioner
Tiruvannamalai Municipality
Tiruvannamalai
Tiruvannamalai District.

+1 CC to S. Revathi, Advocate Sr.No.52877

W.P.No.32123 of 2016

NR (CO)
MD : 18/10/2016



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