

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.34919 of 2016

G.Revathi

... Petitioner

vs.

1. The Principal Secretary to
Government of Tamil Nadu,
Municipal Administration and Water
Supply Department,
Fort St.George, Chennai - 9.
 2. The Director of Town Panchayats,
Kuralagam, Chennai - 108.
 3. The Assistant Director of Town Panchayat,
Vellore, Vellore District.
- ... Respondents

Prayer :- Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents 1 and 2 to forthwith promote the petitioner as Executive Officer Grade-II/Head Clerk/Assistant and Executive Officer Grade-I-with effect from the date on which the petitioner's Junior Mr. P.S.Saravanan got promotion as Executive Officer Grade-II/Head Clerk/Assistant and Executive Officer Grade-I including the petitioner's name in the state level seniority list of Executive Officer Grade-II/Head clerk/Assistant for the year 2007-08 and in the seniority list of Executive officer Grade-I in the year 2010-11 above Mr.P.S.Saravanan based on the date of her entry into the ministerial service with all monetary and other attendant benefits.

For Petitioner : Mr.N.Kolandaivelu

For Respondents : Mr.S.Gunasekaran,
Addl. Gov. Pleader

O R D E R

With the consent of both sides, the main writ petition itself is taken up for final disposal.

2. The writ petition has been filed seeking Mandamus directing the respondents 1 and 2 to forthwith promote the petitioner as Executive Officer Grade-II/Head Clerk/Assistant and Executive Officer Grade-I including the petitioner's name in the state level seniority list of Executive Officer Grade-II/Head clerk/Assistant for the year 2007-08 and in the seniority list of Executive officer Grade-I in the year 2010-11 above Mr.P.S.Saravanan based on the date of her entry into the ministerial service with all monetary and other attendant benefits.

3. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

4. The petitioner was appointed as Bill Collector/Junior Assistant on compassionate ground in Panapakkam Town Panchayat, Vellore District on 24.11.1997 and his probation was declared with effect from 24.11.1999. He has been working in the post of Bill Collector/Junior Assistant for more than 20 years without any promotion despite the fact that he was fully qualified for promotion to the post of Executive Officer Grade-II/Assistant/Head Clerk since 2000.

5. In the meantime, the 1st respondent issued G.O.(Ms) No.62 Municipal Administration & Water Supply (TP-1) Department dated 18.04.2009, making amendment to the Service Rules governing the post of Executive Officer grade-II/Head Clerk/Assistant, etc., so as to deletion of District as a unit for appointment, transfer etc. and declaring state as an unit for all categories of posts are concerned and the amendments are given effect from 07.05.1981.

6. In the light of the amendments, the first respondent in G.O.(Ms) No.107 dated 21.11.2012 issued directions to the first respondent. As per the direction of the first respondent, the 2nd respondent vide proceedings in Na.Ka.No.6793/2009/A7, dated 28.03.2013 drawn a tentative State Level Seniority list containing the names of Junior Assistant/Bill Collector and Assistant/Head Clerk/Executive Officer Grade-II of Ministerial service reckoning the date of entry into ministerial service. Since the name of the petitioner was not included in the said seniority list, he preferred an objection dated 26.04.2013 to the 2nd respondent to include his name in the said tentative seniority list.

7. Subsequently, the 2nd respondent by proceedings in Na.Ka.No.6793/2009/A7, dated 12.07.2013 approved final state level seniority list upto the year 2011-12. In that list also the name of the petitioner was not included and no reason was given for non-inclusion . Therefore, he preferred an appeal to

the respondents 1 and 2 through representations dated 30.08.2013, 24.09.2014 and 13.06.2015. His junior Mr.P.S.Saravanan, who entered into service as Junior Assistant on 19.01.1998 much later than the petitioner, was given promotion as Executive Officer Grade-II/Head Clerk/Assistant on 04.01.2005.

8. The petitioner name has been inserted in the seniority list pursuant to the intervention of this Court. The petitioner was given promotion as Executive Officer Grade-II/Head Clerk/Assistant on 31.08.2016. The petitioner should be given promotion as Executive Officer Grade-II/Head Clerk/Assistant and Executive Officer Grade -I, etc., with effect from the date on which his junior Mr.P.S.Saravanan got promotion and include his name in the state level seniority list for the said posts, before the name of P.S.Saravanan. Therefore, the petitioner made representations to the respondents 1 and 2 on 22.03.2016 and 29.07.2016, but till date no order has been passed. Hence, the petitioner has come forward with the present writ petition.

9. The learned counsel for the petitioner submitted that though writ petition was filed for positive direction, if a direction is given to consider the representation already made by the petitioner on 29.07.2016 to the respondents 1 and 2, it would be sufficient.

10. In view of the same, without going into the merits of the claim of the petitioner, this court directs petitioner to give copy of the representation dated 29.07.2016 to the respondents 1 and 2, 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 receipt of the same, the respondents 1 and 2 are directed to consider the said representation on merits and in accordance with law, by affording an opportunity of personal hearing to the petitioner and other necessary persons and Mr.P.Saravanan and pass appropriate order, within a period of eight weeks thereafter.

11. With the above direction, the present writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mrp

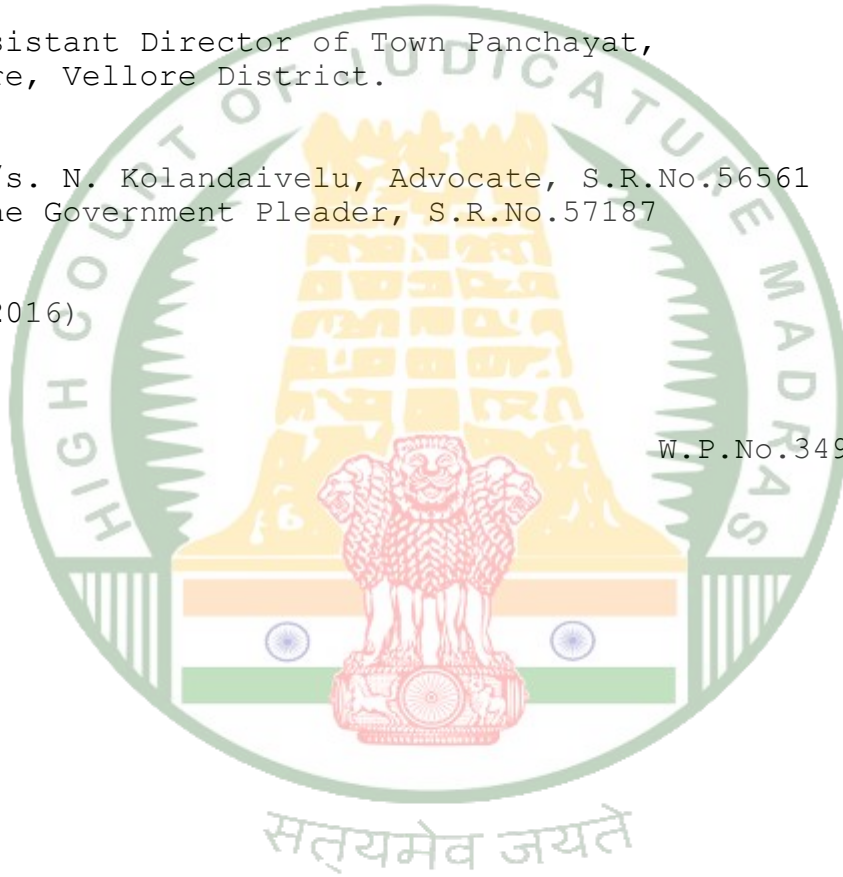
To

1. The Principal Secretary to
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2. The Director of Town Panchayats,
Kuralagam, Chennai - 108.
3. The Assistant Director of Town Panchayat,
Vellore, Vellore District.

+1cc to M/s. N. Kolandaivelu, Advocate, S.R.No.56561
+1cc to the Government Pleader, S.R.No.57187

SM(CO)
EU(21/10/2016)

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