

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2016

CORAM :

THE HONOURABLE Mr.JUSTICE R.SUBBIAH

W.P.No.36004 of 2016
and
W.M.P.No.30952 of 2016

M.Sundararajan

... Petitioner

Vs.

1. The Secretary of Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai-600 009.
2. The Commissioner of Municipal Administration,
Chepauk, Chennai-5.
3. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore-641 001.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondents not to take any final decision on the petition submitted by one Thiru.R.Subramaniam, retired Superintendent, making allegation against the petitioner dated 16.06.2016 without affording any fair and reasonable opportunity to the petitioner on the action proposed by the respondents.

For Petitioners : Mr.T.Ranganathan

For Respondents : Mr.N.Srinivasan,
Additional Government Pleader

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ORDER

This writ petition has been filed by the petitioner, praying for issuance of a writ of Mandamus, directing the respondents not to take any final decision on the petition dated 16.06.2016 submitted by one Thiru.R.Subramaniam, retired Superintendent, making allegation against the petitioner, without affording any fair and reasonable opportunity to the petitioner.

2.The brief facts of the case of the petitioner are as follows:-

2-1.The petitioner is presently working as Assistant Commissioner (Personnel), Coimbatore City Municipal Corporation, Coimbatore. The petitioner belongs to Hindu Kulala Community, which is recognized as a Most Backward Class as per G.O.(Ms). No.242, Social Welfare Department, dated 28.03.1989. The petitioner has obtained community certificate from the Headquarters Deputy Tahsildar, Vadipatti, Madurai District vide Certificate No.755066, dated 15.06.1989.

2-2.It is stated by the petitioner that the 3rd respondent after considering the Certificates and also the performance made during the interview held on 03.06.1991 has selected the petitioner for the post of Sanitary Inspector/Health Assistant in the Coimbatore City Municipal Corporation against the Most Backward Class quota (non-priority). The Appointment Committee of the Coimbatore City Municipal Corporation in its Resolution No.16, dated 03.06.1991 has also approved the selection made by the 3rd respondent. Based on the Appointment Committee's Resolution, the Commissioner, Coimbatore City Municipal Corporation has issued the proceedings in Na.Ka.No.522/90/E9, dated 07.06.1991 appointing the petitioner in the post of Sanitary Inspector/Health Assistant in time scale of pay of Rs.1350-30-1440-40-1800-50-2200 with usual allowance. On receipt of the appointment order, the petitioner has submitted the original certificates relating to his educational qualification, Sanitary Inspector's Certificate Course, Community Certificate issued by the issued by the Tahsildar and the Medical Fitness Certificate from the Medical Officer and joined duty on 14.06.1991. The 3rd respondent has also issued orders in his proceedings Na.Ka.No.522/90/E9, dt 14.06.1991, appointing the petitioner as Health Assistant/Sanitary Inspector in the existed vacancy of Division No.42. Accordingly, the petitioner has assumed charge on 14.06.1991.

2-3.Thereafter, the petitioner has acquired the degree in B.Sc., Chemistry in the year 1999 through Indira Gandhi National Open University and also the B.L. Degree (Evening College) in the Coimbatore Law College by obtaining No Objection Certificate from the Commissioner, Coimbatore City Municipal Corporation, the 3rd respondent, by his letter Na.Ka.No.1058/99/ME.7, dated 29.07.1999. The petitioner has completed the B.L. Degree Course in the year 2002 and the Degree was conferred by the Tamil Nadu Dr.Ambedkar Law University on 20.02.2006. Based on the said qualification of B.Sc., B.L., he has applied for the post of Secretary to Council in the Coimbatore City Municipal Corporation, which can be filled up by promotion from the post of Superintendent or by deputation from

the Municipal Commissioners or Selection Grade Assistant Section Officers of Secretariat. However, since there was no qualified Superintendent with B.L., qualification in the 3rd respondent's Corporation, the request of the petitioner was considered by the Coimbatore City Municipal Corporation Council and the 3rd respondent has recommended the case of the petitioner for appointment as Secretary to Council by relaxing the said condition under Rule 3 of the Tamil Nadu Municipal Corporation General Service Rules, 1996. The 2nd respondent has also forwarded the said recommendation of the 3rd respondent to the 1st respondent and consequently, the 1st respondent issued orders in G.O.(D).No.268, MAWS Department, dated 14.07.2006. Subsequently, the petitioner was considered for the post of Assistant Commissioner in G.O.(D).No.552, MAWS Department, dated 29.10.2010 by relaxing the condition under Rule 4 of the Tamil Nadu Municipal Corporation General Service Rules, 1996, since the petitioner has not worked as Accounts Officer/Assistant Revenue Officer for a period of 2 years. This relaxation is also given to the petitioner only when there was no other person eligible for the said post of Secretary to Council, Assistant Commissioner (Revenue), duly recommended by the 3rd respondent through the 2nd respondent and the 1st respondent has considered the claim of the petitioner and issued orders accordingly. By the said orders of the Government, no other person was deprived of his/her promotion on the ground that there was no qualified Superintendent with B.L. qualification for appointment as Secretary to Council when the Government has issued orders in G.O.(D).No.268, MAWS Department, dated 14.07.2006 and also no other person qualified for the post of Assistant Commissioner (Revenue) when the Government has issued orders in G.O.(D).No.552, MAWS Department, dated 19.10.2010. On this score, both the orders issued by the Government are perfectly valid and legally sustainable.

2-4.While so, one Thiru.R.Subramanian, who was a Superintendent in the Coimbatore City Municipal Corporation, has submitted various representations for his promotion and also raised objections against the employees of the Coimbatore City Municipal Corporation narrating various allegations at his will and wish. Similarly, the said Subramanian has submitted a petition 16.06.2016 against the petitioner alleging that the petitioner was appointed as Sanitary Inspector in the Coimbatore City Municipa Corporation by a bogus employment card or based on the Employment Exchange card of another person, thereby, he is liable to be prosecuted under the provisions of the India Penal Code. The said Subramanian has also submitted petition to various authorities alleging that the petitioner's B.L. degree is also bogus. Hence, apprehending departmental action by the respondents, the petitioner has come forward with the present writ petition seeking to direct the respondents not to take any

final decision on the petition submitted by the said Thiru.R.Subramaniam, without affording any fair and reasonable opportunity to the petitioner on the action proposed by the petitioner to be taken by the petitioners.

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

4.The present writ petition has been filed seeking to direct the respondents not to take any final decision on the petition submitted by one Thiru.R.Subramaniam, making allegations against the petitioner, without affording any fair and reasonable opportunity to the petitioner. This Court is not inclined to give such a positive direction to the respondents. However, in the interest of natural justice, the respondents are directed to get explanation from the petitioner on the complaint given by the said Subramanian, before taking any final decision.

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

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssv

To

1. The Secretary of Government,
Municipal Administration and
Water Supply Department,
Secretariate, Chennai-600 009.
2. The Commissioner of Municipal Administration,
Chepauk, Chennai-5.
3. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore-641 001.

+1cc to Mr.T.Ranganathan, Advocate, S.R.No.58316

+1cc to the Government Pleader, S.R.No.58613

W.P.No.36004 of 2016 and

W.M.P.No.30952 of 2016

ALA(CO)

CA(05/12/2016)