

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2017

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5010 of 2014

and

M.P.No.1 of 2014

S.Murugesan

... Petitioner

-vs-

The Commissioner of Municipality,
Pallipalayam Municipality,
Namakkal District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondent to appoint the petitioner herein as Driver in the respondent Municipality by way of promotion from the post of Sanitary Worker as per the seniority by considering the G.O.Ms.No.95 Municipal Administration and Water Supply dated 18.07.2000 and the representation of the petitioner herein dated 27.12.2013.

For Petitioner :: Mr.R.Nalliyappan

For Respondent :: Mr.M.Balakrishnan

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O R D E R

The relief sought for in this writ petition is to direct the respondents to appoint the petitioner as Driver in the respondent Municipality by way of promotion from the post of Sanitary Worker as per the seniority by considering the G.O.Ms.No.95 Municipal Administration and Water Supply dated 18.07.2000.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner has appointed as Sanitary Worker in the respondent Municipality on 23.01.1998 and as per the Rules in force, he is eligible for the post of Driver. However, the respondent has not considered the case of the writ petitioner in the grievances set out in this writ petition. The learned counsel made a submission that the promotion to the post of driver has been done in accordance with the Rules and there

is no vacancy as on today available, so as to consider the case of the writ petitioner.

3.This Court is of the view that promotion can never be claimed as a matter of right. However, consideration for promotion is a fundamental right, whenever, the preparation of panel is under taken by the Competent Authorities, all the eligible candidates in accordance with the seniority are to be considered for inclusion in the panel and for promotion. In this writ petition, no such allegation has been set out in respect of the preparation of panel or promotion of any unqualified person junior to the writ petitioner. In this regard, neither an order of promotion has been challenged nor any junior has been impleaded as respondent in this writ petition.

4.Under these circumstances, the learned counsel appearing for the writ petitioner states that his junior was promoted. Thus, without going into the merits of the matter, the respondent is directed to consider the representation submitted on 27.12.2013 and pass orders on merits, within a period of twelve weeks from the date of receipt of a copy of this order.

5.Accordingly, the writ petition stands disposed of. However, there is no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Commissioner of Municipality,
Pallipalayam Municipality,
Namakkal District.

+1 cc to Mr.M.Balakrishnan Advocate sr 80066
+1 cc to Mr.R.Nalliyappan Advocate sr 79519

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rv(co)
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