

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.01.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.1132 of 2011

K.Chellammal

...Petitioner

- Vs -

1.The Assistant Director of Town Panchayats,
Erode Region, Erode-638 011.

2.The Executive Officer,
Madathukulam Town Panchayat,
Tiruppur District.

3.Mr.P.Baluchamy
Sanitary Supervisor,
Madathukulam Town Panchayat,
Tiruppur District.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the second respondent in Na.Ka.297/2010 dated 01.11.2010 and quash the same and direct the second respondent to promote the petitioner as Sanitary Supervisor with effect from the date of the impugned order and grant him all consequential benefits and render justice.

For Petitioner : Mr.P.Rajendran
For 1st Respondent : Mr.S.Navaneetham
Additional Government Pleader

For 2nd Respondent : Mrs.M.Sneha

For 3rd Respondent : No Appearance

O R D E R

This writ petition is filed by the petitioner challenging the impugned order passed by the 2nd respondent in Na.Ka.297/2010 dated 01.11.2010.

2. According to the petitioner, the 2nd respondent has prepared the seniority list for the post of sanitary supervisor. In the seniority list, the petitioner's name has been placed at Sl.No.12 whereas the 3rd respondent's name has been placed at Sl.No.23. But, the 2nd respondent has passed the impugned order promoting the 3rd respondent to the post of sanitary supervisor overlooking the petitioner's seniority without any valid reasons. Therefore, the petitioner has filed the present writ petition before this Court.

3. On the contrary, the learned counsel for the 2nd respondent has submitted that a resolution has been passed by the Madathukulam Town Panchayat on 18.10.2010. On the basis of the said resolution, the impugned order has been passed. In the counter affidavit itself, it is stated that the petitioner's promotion was rejected for the reason that even though the petitioner was coming under Sl.No.12 of the seniority list, he was not eligible for promotion for the reason that the petitioner does not know to ride by-cycle. It is one of the condition for promotion to the post of Sanitary Supervisor. Hence, the petitioner's name was not considered for promotion.

4. In view of the submission made by the parties concerned, the eligibility for promotion to the post of Sanitary Supervisor reads as under:

- 1) VIII Std Pass.
- 2) To know cycling.

5. The petitioner is having required educational qualification, but, he has not known to ride bi-cycle. The said fact was disputed by the 2nd respondent that the petitioner did not know to ride the bi-cycle.

6. In view of the disputed fact, the petitioner is directed to appear before the 1st respondent and to prove that he knows to ride bi-cycle as per the eligibility conditions. The 1st respondent is directed to examine the petitioner in accordance with the norms and to decide the eligibility of the petitioner.

7. In view of the same, the order passed by the 2nd respondent is liable to be set aside, and I am inclined to pass following order:

'1. The 2nd respondent is directed to send particulars about the petitioner to the 1st respondent within six weeks from the date of receipt of a copy of this order.

2. On receipt of the said particulars of the petitioner, the 1st respondent is directed to issue notice to the writ petitioner to appear before him and examine the petitioner for the

promotional post. Thereafter, send the report to the 2nd respondent for passing final orders.

3. On receipt of the said report from the 1st respondent, the 2nd respondent is directed to pass final orders within eight weeks.''

8. With the above directions, this Writ Petition is allowed and the order passed by the 2nd respondent is set aside and the impugned order is quashed. No costs.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

To

- 1.The Assistant Director of Town Panchayats,
Erode Region, Erode-638 011.
- 2.The Executive Officer,
Madathukulam Town Panchayat,
Tiruppur District.
- 3.Mr.P.Baluchamy
Sanitary Supervisor,
Madathukulam Town Panchayat,
Tiruppur District.

+1cc to M/S. Sneha, Advocate Sr. 4828

+1cc to Mr. P. Rajendren Advocate Sr. 4598

सत्यमेव जयते

W.P.No.1132 of 2011

RJ(CO)
Vr(24/03/2017)

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