

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.6982 of 2017

K.Gunasekaran

... Petitioner

-vs-

1. The Director of Town Panchayat
Kuralagam Complex
Broadway
Chennai 600 108

2. The Assistant Director of Town Panchayat
Salem Region
Salem District

3. The Executive Officer
Pothanur Selection Grade Town Panchayat
Pothanur Post
Namakkal District

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents, particularly the third respondent to consider the representation dated 01.02.2017 of the petitioner and to confer all consequential benefits such as annual increment, arrears of pay, pay commission arrears etc., in the light of the order dated 20.06.2012 passed in W.P.No.36682 of 2006 within a time limit to be stipulated by this Hon'ble Court.

For Petitioner :: Mr.P.Ganesan

For Respondents :: Mr.V.Jayaprakash Narayanan
Special Government Pleader for
R1 & 2Mr.P.Sanjay Gandhi for R3

ORDER

The petitioner, while serving as Sanitary Supervisor, suffered an order of termination passed by the third respondent on 10.10.2000, on the ground that his appointment was contrary to the established procedures of the Panchayat. The order of termination was challenged before the Tamil Nadu Administrative Tribunal in O.A.No.7505 of 2000 and the order of termination was set aside by the Tribunal, by order dated 30.10.2001, giving liberty to the third respondent to proceed afresh in accordance with law, and the said order was confirmed by a Division Bench of this Court in W.P.No.40390 of 2002 vide order dated 18.10.2005. Pursuant thereto, the third respondent issued a show cause notice dated 22.9.2006 and the same was challenged by the petitioner in W.P.No.36682 of 2006. This Court, while analysing the case of both sides, passed a speaking order on 20.6.2012, quashing the show cause notice dated 22.9.2006, holding as follows:-

"9. At this stage, the Learned Counsel for the Respondent/Panchayat submits that the Respondent/Panchayat has issued the show cause notice dated 22.09.2006 to the Petitioner/Employee only based on the observation made by this Court in the order passed in W.P.No.40390 of 2002 dated 18.10.2005. In the considered opinion of this Court, the issuance of show cause notice dated 22.09.2006 to the Petitioner is not a bonafide and sound one, since the Director of Town Panchayat, even as early as on 29.08.2001, in his proceedings had accepted the domestic Enquiry Officer's finding relating to the Officer/Person (Appointing Authority), who reappointed the Petitioner without resorting to the Employment Exchange after his termination within 90 days, thereby giving a tacit approval in regard to the reappointment of the Petitioner. 10. Viewed in that perspective, the show cause notice daed 22.09.2006 issued by the Respondent/Panchayat is quashed and consequently, the Writ Petition succeeds. 11. In the result, the Writ Petition is allowed, leaving the parties to bear their own costs."

2. In the light of the above, the petitioner has given a representation on 1.2.2017 to the respondents. But, till date,

the same has not been considered. Therefore, the first respondent is hereby directed to consider the representation of the petitioner, on the basis of the order dated 20.06.2012 passed in W.P.No.36682 of 2006, within a period of two weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

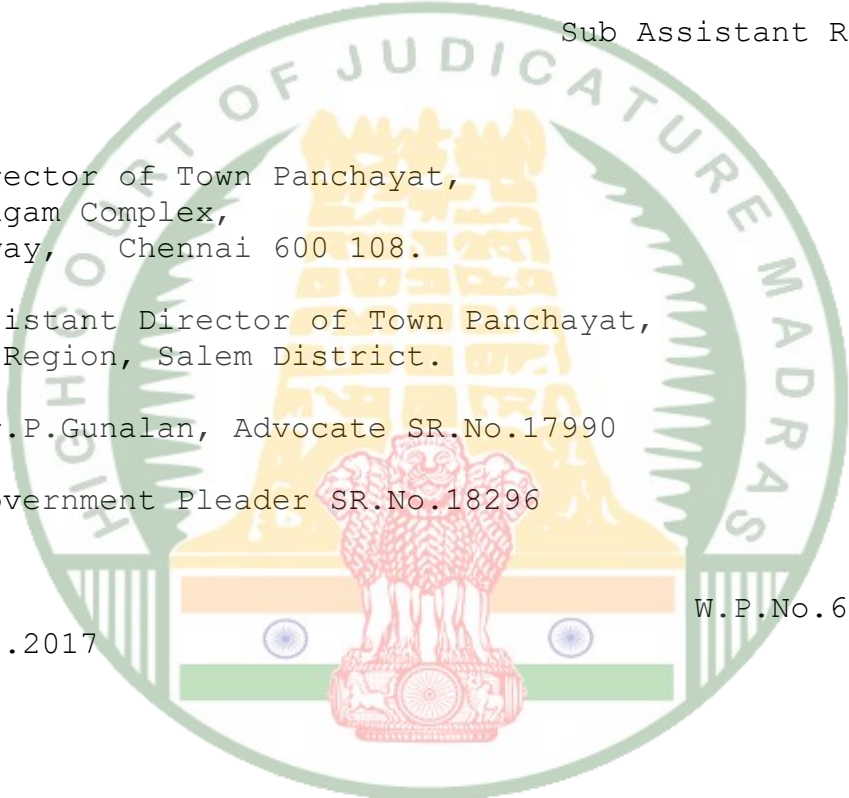
1. The Director of Town Panchayat,
Kuralagam Complex,
Broadway, Chennai 600 108.
2. The Assistant Director of Town Panchayat,
Salem Region, Salem District.

+1cc to Mr.P.Gunalan, Advocate SR.No.17990

+1cc to Government Pleader SR.No.18296

SDR 10.04.2017

W.P.No.6982 of 2017



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