

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No. 3268 of 2017

K. Iyyappan

.. Petitioner

vs.

1. The Commissioner of Municipal
Administration & Water Supply
Chepauk, Chennai - 600 005.

2. The Commissioner
Panruti Municipality
Panruti
Cuddalore District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents to consider the representation dated 21.01.2017 of the petitioner, requesting to appoint him in any of the existing post with regular scale of pay to which he is eligible on the basis of memo in Na.Ka. No. 5424/2016/B3 dated 18.01.2017 and as per (i) G.O.Ms.No. 125 MA & WS Dept. dated 27.05.1999 and (ii) G.O.Ms.No. 21 MA & WS Dept. dated 23.02.2006 at the office of the 2nd respondent with all benefits

For Petitioner : Mrs. T. Aananthi

For Respondents: Mr. R. Govindasamy
Addl. Govt. Pleader for R1

Mr.P.V. Selvakumar, Standing Counsel
for R2 Municipality

ORDER

This writ petition has been filed seeking for a direction to the respondents to consider his representation dated 21.01.2017, requesting to appoint him in any of the existing post, under regular scale of pay to which he is eligible, on the basis of memo in Na.Ka. No. 5424/2016/B3 dated 18.01.2017 and as per (i) G.O.Ms.No. 125 MA & WS Dept. dated 27.05.1999 and (ii) G.O.Ms.No. 21 MA & WS Dept. dated 23.02.2006 at the office of the 2nd respondent, with all benefits.

2. According to the learned counsel for the petitioner, the petitioner was appointed on consolidated pay as an NMR on 01.11.1995 in the 2nd respondent Municipality and on 31.03.1997 he was ousted from service. Learned counsel for the petitioner submitted that Government passed orders in G.O.Ms.No. 125 MA & WS Department dated 27.05.1999 and G.O.Ms.No. 21 MA & WS Dept. dated 23.02.2006, directing the concerned Municipal Commissioners to appoint the persons, who were working as NMRs prior to 01.10.1996, under regular time scale of pay, in the vacant posts. Hence, the petitioner made a representation on 22.11.2016. But, the 2nd respondent rejected the claim, stating that the records showing the service details of the petitioner is untraceable and that if relevant records are submitted by the petitioner, the same would be considered. Since no orders have been passed on the representation of the petitioner, this writ petition has been filed, seeking the aforesaid prayer.

3. According to Mr. P.V. Selvakumar, learned Standing Counsel for Municipalities, the 2nd respondent had passed the impugned order, taking into consideration the fact that the petitioner had worked as an NMR only for 108 days from 01.03.1996 to 30.09.1996, in the pay & use public convenience and cycle stand at Panruti Bus Stand. As per G.O.Ms. No. 125 dated 27.05.1999, the Government order is not applicable to NMRs who were working at Public Convenience and collecting parking fees at cycle stand. He further submitted that the claim of the petitioner cannot be considered since the petitioner has neither completed 10 years of service nor comes under the eligible criteria as per G.O.Ms.No. 125 Municipal Administration and Water Supply Department dated 27.05.1999. In the counter filed by the 2nd respondent, it is reiterated that the petitioner has worked only for 108 days, prior to 01.10.1996 and was working as an NMR in the pay & use public convenience and cycle stand at Panruti Bus Stand. Therefore the petitioner is not eligible to be considered and the writ petition is liable to be dismissed.

4. Heard learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

5. Considering the above submissions, this Court is inclined to direct the petitioner to submit additional materials if any, to prove the claim of the petitioner, within two weeks from the date of receipt of a copy of this order. On receipt of such representation, the 2nd respondent is directed to consider the representation of the petitioner dated 21.01.2017 and pass appropriate orders on merits and in accordance with law, within a period of twelve weeks, thereafter.

6. Accordingly, the Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

avr

To

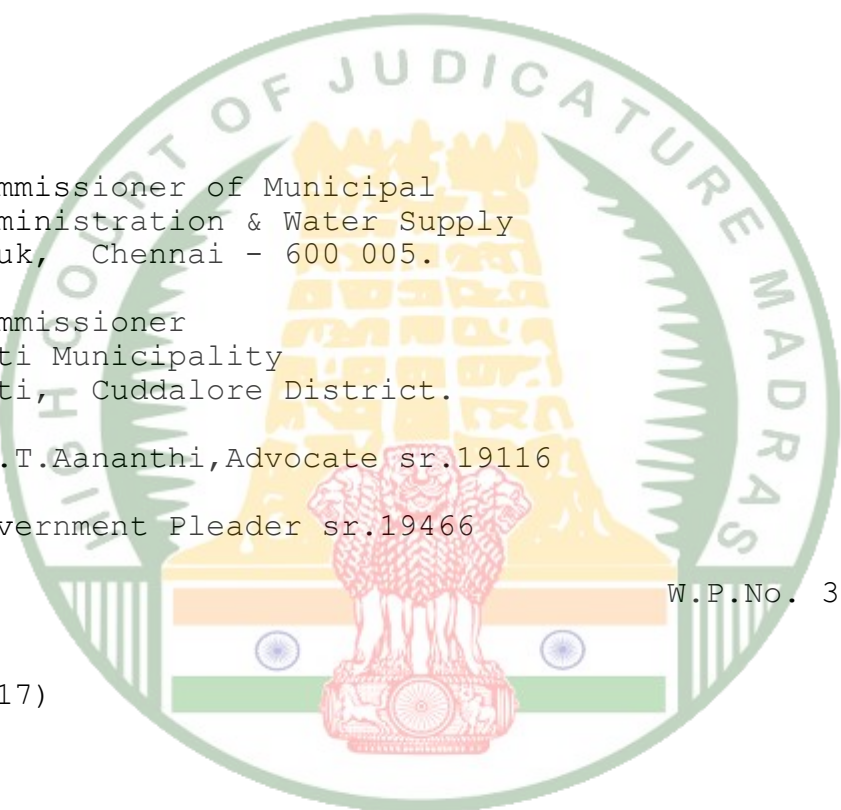
1. The Commissioner of Municipal
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Panruti, Cuddalore District.

+1cc to Ms.T.Aananthi, Advocate sr.19116

+1cc to Government Pleader sr.19466

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scd(co)
ss(28/4/2017)



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