

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.15243 of 2017

P.Selvakumar

... Petitioner

Vs.

1. The Principal Secretary to Government,
Municipal Administration and Water
Supply Department, Secretariat,
Chennai- 600 009.
 2. The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
 3. The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.
- ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the order passed by the third respondent herein in his Na.Ka.No.14250/2008 (MC2) MC9 dated 26.05.2017 rejecting the petitioner's request for promotion as Junior Assistant and quash the same and consequently direct the first respondent herein to consider the petitioner for promotion as Junior Assistant in relaxation of Rules.

For Petitioner : Mr.Ravi Shanmugam

For Respondents : Mr.T.M.Pappiah
Special Government Pleader

O R D E R

The petitioner, having joined the services of the respondents as Office Assistant through Employment Exchange on 17.01.1985, was given promotion to the post of Record Clerk on 14.12.2000. Subsequently, after nine years, the Appointment Committee of the Coimbatore Corporation passed a resolution promoting the petitioner as Junior Assistant-cum-Typist with a condition that the petitioner should pass Typewriting Higher Grade either in Tamil or English within two years. After three years, on 27.12.2012, he was reverted back to the post of Record Clerk, as he has not passed Typewriting Higher Grade either in Tamil or English. However, on his representation, the second respondent/Commissioner, Coimbatore City Municipal Corporation had recommended his case for promotion as Junior Assistant-cum-Typist in relaxation of Rules on 02.08.2013. Finding no response, a reminder was also sent on 20.04.2015. Thereafter, the Commissioner, Coimbatore City Municipal Corporation again sent a recommendation to the respondents for the petitioner's promotion on 16.08.2016. But there was no response. Therefore, the petitioner came to this Court with W.P.No.2842 of 2017 seeking a direction to the first respondent to consider his case of the petitioner. This Court, by order dated 06.02.2017, directed the first respondent to consider his case on the basis of the proposal. In the meanwhile, it is stated that instead of the first respondent considering the case of the petitioner, as directed by this Court the second respondent-Commissioner, Coimbatore City Municipal Corporation has rejected the case of the petitioner. In the interregnum, several other persons without having typewriting qualification were promoted. Therefore, the second respondent cannot reject the case of the petitioner, which will not be only amounting to an arbitrary approach, but also discriminating the petitioner among other persons, who are similarly placed.

2. But this Court is not inclined to entertain the writ petition. The reason is that when the petitioner is aggrieved by an order passed by this Court in W.P.No.2842 of 2017 dated 06.02.2017, he should make out his case in the manner known to law. Secondly, when the second respondent/Commissioner, having considered the case of the petitioner that he has not even complied with the condition mentioned by the appointment Committee of Coimbatore City Municipal Corporation passing a resolution for promoting the petitioner as Junior Assistant-cum-Typist that he should pass Typewriting Higher Grade either in Tamil or English within two years and subsequently finding that he had not passed the said test, has reverted him back to the post of Record Clerk. In my considered opinion, the second respondent has rightly passed the impugned order. Thirdly, the petitioner should have passed the Typewriting Higher Grade

either in Tamil or English as per the order dated 08.07.2009, which he has miserably failed to comply with. Therefore, he was reverted back. Hence, the question of relaxation does not arise. Accordingly, the writ petition fails and it is dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Municipal Administration and Water supply Department,
Secretariat, Chennai-09.
- 2.The Commissioner of Municipal Administration,
Chepauk,
Chennai-600 005.
- 3.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore.

+1cc to Mr.Ravishanmugam, Advocate SR.No.42872
+1cc to Government Pleader SR.No.43103

W.P.No.15243 of 2017

NM(CO)
GN(04/07/2017)

सत्यमेव जयते

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