



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 08.06.2017
CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.A (MD) No. 88 of 2014

and

M.P. (MD) No.1 of 2014

P.Meenakumari

... Appellant

Vs

1. The Commissioner,
Municipal Administration and Water Supply Department,
Chepauk, Chennai 600 009.

2. The Commissioner,
Tirunelveli Municipal Corporation,
Tirunelveli.

... Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent Act, to set aside the order dated 07.03.2013 made in W.P (MD).No.3523 of 2013 on the file of this Court.

Prayer in WP(MD). 3523/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus, directing the respondents to fix the seniority of the petitioner in between serial No.5 and 6 in the list published by the 2nd respondent in his proceedings in Na.Ka.NO.C1 11047/2011 dated 30.10.2012 in the light of the Government Order No. 234 Municipal Administration and Water Supply dated 17.04.1989 and consequently directing the respondents to consider the petitioner for promotion to the post of Assistant along with the candidates selected in 1997 to the post of Junior Assistants and pass such other orders.

For Appellant : Mr. Veera Kathiravan
Senior Counsel for M/s. Veera Associates
For R1 : Mr.Muruganandam
Additional Government Pleader
For R2 : Mr. Aayiram K. Selvakumar

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

<https://hcservices.courts.gov.in/hcservices/> THIS Writ Appeal is directed against the order dated 07.03.2013 made in W.P (MD).No.3523 of 2013.



2. Heard Mr. Veera Kathiravan, learned Senior Counsel appearing for the appellant, Mr. Murugnantham, learned Additional Government Pleader appearing for the 1st respondent and Mr. Aayiram K. Selvakumar, learned counsel appearing for the 2nd respondent.

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3. The said Writ Petition was filed by the appellant herein to direct the respondents to fix the seniority of the petitioner in between the Serial No. 5 and 6 in the list published by the second respondent, vide proceedings dated 30.10.2012, in the light of the Government order vide G.O (Ms).No.234, Municipal Administration and Water Supply Department, dated 17.04.1989 and to consider the appellant for promotion to the post of Assistant along with the candidates selected in 1997 to the post of Junior Assistant.

4. Admittedly, the petitioner's case was treated as a special case vide G.O (Ms).No. 208, Municipal Administration and Water supply Department, dated 31.03.2001, pursuant to which she was selected and given an appointment on 26.07.2001. The appellant accepted the said appointment and joined duty and did not raise any objection for about six years. The appellant has now made a claim for appointment from the year 1998.

5. The contentions raised by the appellant are fallacious. The appellant cannot seek for the benefits which cannot accrue to her as she was not appointed in the year 1998. The appellant was inspired by G.O.Ms.No.234, dated 17.04.1989. The said order cannot over rule the service rule namely the Tamil Nadu Municipal Corporation Service Rules 1996. Thus, the learned Single Judge was perfectly right in dismissing the Writ Petition and observing that the appellant herein cannot claim seniority along with 11 persons who were selected and appointed in the year 1998. The Government while passing G.O (Ms).No. 208, Municipal Administration and Water supply Department, dated 31.03.2001 did not grant any retrospective benefit to the petitioner but only from the date on which she got appointment, but, for G.O (Ms).No. 208, the appellant would not have been appointed to the post and the Government appears to have treated the case of the appellant as a special case. Thus, the order of the learned Single Judge in dismissing the writ petition cannot be interfered with.

6. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, the connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (Writs)

/True copy/



To:

1. The Commissioner,
Municipal Administration and Water Supply Department,
Chepauk, Chennai 600 009.

2. The Commissioner,
Tirunelveli Municipal Corporation,
Tirunelveli.

+1 CC to M/s.VEERA ASSOCIATES, Advocate, SR No. 59330
+1 CC to M/s.AAYIRAM K.SELVAKUMAR, Advocate, SR No. 59463
+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 59361.

KM/MR

PSM/RSK/SAR1/20.06.2017/3P/6C

ORDER MADE IN
W.A (MD) No. 88 of 2014
08.06.2017