



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

WP(MD)No.16802 of 2017

and

W.M.P.(MD)Nos.13404 and 13405 of 2017

V.Rengaraj

... Petitioner

vs.

1.The District Collector,
Development Wing,
Collectorate,
Karur.

2.The Assistant Director of Panchayat,
Dindigul.

3.The Executive Officer,
Town Panchayat,
Puliyur,
Karur District.

... Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, directing the third respondent to consider the representation of the petitioner, dated 24.08.2017 and promote the petitioner from the post of Over Head Tank Selection Grade Security to the promotional post of Health Supervisor with the third respondent from the existing vacancy.

For Petitioner : Mr.V.Singan

For R1 and R2 : Mr.K.Guru
Additional Government Pleader

For R3 : Mr.T.S.Mohamed Mohideen
Additional Government Pleader

ORDER

The petitioner has come to this Court seeking for issuance of a Writ of Mandamus, directing the third respondent to consider his representation, dated 24.08.2017 and promote him from the post of Over Head Tank Selection Grade Security to the promotional post of Health Supervisor with the third respondent from the existing vacancy.



Over Head Tank attached to the Puliyur Town Panchayat, Karur District, from 03.05.2001, as per the appointment order issued by the third respondent in his proceedings in Na.Ka.No.A24/2000. The petitioner was appointed only through the Employment Exchange on temporary basis. Thereafter, his services were confirmed. As he has been working for quite long time, he has given a representation, dated 24.08.2017, seeking promotion to the post of Health Supervisor. But, the respondents have not come forward to consider the same. Therefore, the petitioner has been constrained to come to this Court with the abovesaid prayer.

3.A detailed counter affidavit has been filed by the third respondent.

4.Mr.T.S.Mohamed Mohideen, learned Additional Government Pleader appearing for the third respondent submitted that the service of the petitioner is governed by the Tamil Nadu Town Panchayat (Establishment) Rules, 1988 and Part III Chapter 2 of District Municipality Act speaks about the required qualification to get promotion to the post of Sanitary Supervisor. Previously, the post of Sanitary Supervisor was known as Sanitary Maistry. Rule 5 of the Tamil Nadu Town Panchayat [Establishment] Rules, 1988 deals with qualifications and method of recruitment. Since Class II Category I deals with Public Health Maistry or Sanitary Maistry, the method or recruitment shows that promotion from Category II of Class II is the only mode to fill up the post of Public Health Maistry or Sanitary Maistry. However, Category II contains only Public Health Worker, Sanitary Worker, Scavenger, Sweeper and Thotti. Since the post held by the petitioner namely, Selection Grade Security of the Over Head Tank has not been mentioned therein, this Court is unable to entertain the writ petition, therefore, the same is liable to be dismissed.

5.Secondly, the learned counsel for the petitioner submitted that one Mayavan, who was working as Scavenger, was given promotion to the post of Health Supervisor on 02.07.2014, therefore, the prayer of the petitioner can also be considered and the writ petition is not liable to be dismissed.

6.Since the order relied upon by the learned Additional Government Pleader appearing for the third respondent, passed in W.P.(MD)Nos.10845 of 2011 and 4507 of 2014, dated 12.03.2015 [M.Meena Vs. The District Collector, Karur District, Karur and others] clearly shows that Over Head Tank Operator cannot be given promotion to the post of Sanitary Supervisor, in the said order, it is found that since one of the Over Head Tank Operators having been given promotion to the post of Sanitary Supervisor wrongly, on being challenged, this Court has rightly held that even the principles of natural justice cannot be made applicable to them



for challenging the reversion order passed without notice, this Court does not find any merit in the writ petition, hence, this writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

/True Copy/

Sd/-

Assistant Registrar (ADII)

Sub-Assistant Registrar

To

1.The District Collector,
Development Wing,
Collectorate,
Karur.

2.The Assistant Director of Panchayat,
Dindigul.

3.The Executive Officer,
Town Panchayat,
Puliyur,
Karur District.

+One cc to Mr.T.S.Mohamemd Mohideen, Advocate, SR.No.78223

smn2

RL/5C/3P/JC/SAR1/22/9/2017

WP (MD) No.16802 of 2017

11.09.2017