

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.1105 & 681 of 2018

and

W.M.P.Nos.7166, 1366, 1367 & 853 of 2018

K.Settu
W.Ps

..Petitioner in both

vs

The Commissioner,
Vellore Corporation,
Vellore.

..1st Respondent in W.P.Nos.1105 &
681/2018 in both WPs

V.Illayaraja

.. 2nd Respondent in
W.P.No.1105/2018

Prayer in W.P.No.1105 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 1st Respondent in Na.Ka.No.H1/15482/2015/H1 dated 12.01.2018 and to quash the same and consequently directing the 1st respondent to allow the Petitioner to work as Driver in the Respondent Corporation based on the order of promotion issued by the 1st respondent in Na.Ka.No.15482/2015/H1 dated 19.12.2017 and the consequential order issued by Assistant Commissioner(Zone-I), Vellore Corporation vide proceedings in Na.Ka.No.919/2017/H1/Ma1 dated 19.12.2017.

Prayer in W.P.No.681 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 1st Respondent in Na.Ka.No.H1/15482/2015/H1 dated 19.12.2017 (ante-dated) actually served on the petitioner on 08.01.2018 and to quash the same and consequently directing the Respondent to allow the Petitioner to continue in service in the post of Driver in the Respondent Corporation based on order of promotion issued by the Respondent in Na.Ka.No.15482/2015/H1 dated 19.12.2017 and the consequential order issued by Assistant Commissioner(Zone-I), Vellore Corporation vide proceedings in Na.Ka.No.919/2017/H1/Ma1 dated 19.12.2017.

For Petitioner(in both W.Ps) : M/s.G.Sankaran
For Respondents
in W.P.No.1105/2018 : Ms/P.Shanthi,
standing counsel for R1
in both Wps
Mr.L.Chandrakumar for R2
in W.P.No.681/2018 : M/s.P.Shanthi

O R D E R

The relief sought for in respect of W.P.No.681 of 2018 is to call for the records in relation to the order of Reversion passed against the writ petitioner in proceedings dated 19.12.2017, reverting the writ petitioner from the post of Driver to the post of Sanitary Worker and quash the same and the relief sought for in respect of W.P.No.1105 of 2018 is to quash the order dated 12.01.2018, framing the 2nd respondent/Mr.V.Illayaraja to the post of Driver.

2.In view of the fact that both the Reversion order issued to the writ petitioner as well as the promotion issued to the said Mr.V.Illayaraja are interconnected, both the writ petitions are taken up for hearing.

3.The writ petitioner/Mr.K.Settu, was initially appointed as Sanitary Worker in the respondent Corporation on consolidated pay. Subsequently, he was brought under the regular establishment and his services were regularized in the permanent post in the time scale of pay with effect from 11.05.2001. The petitioner was promoted as Driver in the regular vacancy on account of the retirement of the erstwhile Driver, one Mr.Ramamoorthy on 31.10.2017. The promotion was granted to the writ petitioner on 19.12.2017 and joined in the promoted post of Driver on the same day. However, without issuing any show cause notice and providing an opportunity to the writ petitioner, the impugned Reversion order was passed in proceedings dated 19.12.2017, stating that the promotion order issued on 19.12.2017 is cancelled. Challenging the same, the writ petitioner filed W.P.No.681 of 2018. The another writ petition was filed, challenging the promotion order of the 2nd respondent/Mr.V.Illayaraja.

4.This Court is of an opinion that the Reversion affecting the service rights of the writ petitioner, must be issued only by adhering to the principles of natural justice. Before taking

a decision for Reversion, an opportunity to be provided to the writ petitioner and only after receiving his explanation/objections, an order can be passed. Admittedly, in the present case, the impugned order of Reversion dated 19.12.2017 had been passed without even issuing any show cause notice to the writ petitioner.

5. In respect of the promotion order of the 2nd respondent, no such notice is required and therefore, the promotion granted to the 2nd respondent also shall be considered along with the case of the writ petitioner at the time of reconsidering the Reversion.

6. The learned counsel appearing for the 2nd respondent made a submission that the promotion of the 2nd respondent to the post of Driver was in accordance with the rules in force and the learned counsel also passed a resolution to that effect. Therefore, the promotion of the 2nd respondent cannot be linked with the Reversion of the writ petitioner and the Reversion of the writ petitioner was based on certain independent facts, which is to be considered separately.

7. May it be, this Court is of an opinion that the impugned Reversion order was passed without issuing any show cause notice to the writ petitioner and therefore, the same is in violation of the principles of natural justice.

8. In respect of the promotion order of the 2nd respondent - Mr.V.Illayaraja, the issues on merits shall be considered at the time of considering the case of the petitioner. In this view of the matter, the present writ petitions are a fit case for remittance. Accordingly, the order passed by the Commissioner, Vellore Corporation in proceedings in Na.Ka.No.15482/2015/H1 dated 19.12.2017 is quashed and the matter is remitted back for reconsideration.

9. Thus, the 1st respondent is directed to issue a fresh show cause notice to the writ petitioner and all other persons concerned, within a period of three weeks from the date of receipt of a copy of this order and on receipt of the explanation/objections from the respective persons, a final decision shall be taken and an order is to be passed on merits and in accordance with law without causing any undue delay.

10. Accordingly, both the writ petitions stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

kak

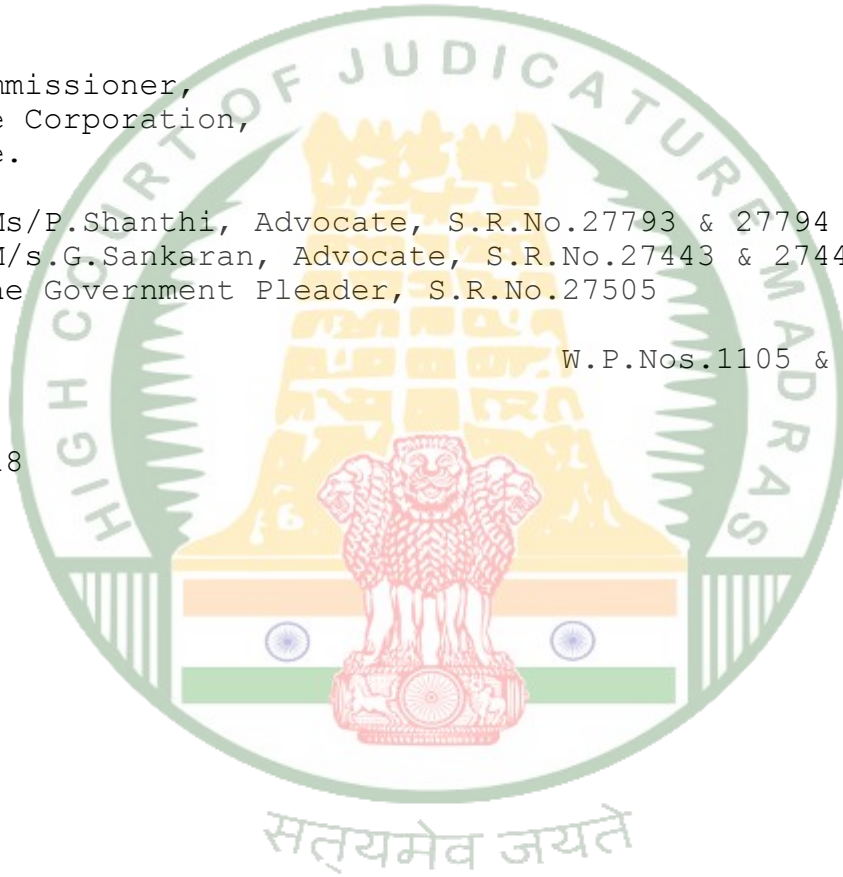
To

1. The Commissioner,
Vellore Corporation,
Vellore.

+2ccs to Ms/P.Shanthi, Advocate, S.R.No.27793 & 27794
+2ccS to M/s.G.Sankaran, Advocate, S.R.No.27443 & 27444
+1cc to the Government Pleader, S.R.No.27505

W.P.Nos.1105 & 681 of 2018

RSI (CO)
CS/17/05/18



WEB COPY