



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2018

CORAM :

WEB COPY

**THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS. JUSTICE R.THARANI**

W.A(MD) No.269 of 2018

P.Vairavan

... Appellant

Versus

1.The Government of Tamil Nadu,
Secretary to Government,
Municipal Administration and Water
Supply Department,
Fort St. George, Chennai.

2.The Director of Town Panchayats,
Kuralagam, Chennai.

3.The District Collector,
Sivaganga,
Sivagangai District.

4.The Secretary,
Tamil Nadu Public Service Commission,
Omanthoorar Government Estate,
Anna Salai, Chennai - 2.

... Respondents

Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 04.01.2018 made in W.P.(MD) No.10184 of 2013 on the file of this Court.

Prayer in WP(MD). 10184/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ, directing the 1st Respondent to consider the case of the petitioner for appointment to the post of Junior Assistant on compassionate ground in accordance with the guidelines issued in G.O.Ms. No. 206 Municipal Administration & Water Supply (Town panchayats 1) Department dated 02.11.1995 after getting necessary concurrence from the 4th Respondent herein with all consequential benefits.



For Appellant

: Mr.R.Sundar

For Respondents

: Mr.V.R.Shanmuganathan, Spl.G.P.
For RR1 to 3

Mr.K.K.Senthil for R4

JUDGMENT

(Judgment of the Court was delivered by T.S.SIVAGNANAM,J)

Heard Mr.R.Sundar, the learned counsel for the appellant and Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the respondents.

2.With the consent of either side, the writ appeal itself is taken up for disposal at the admission stage itself.

3.This appeal is directed against the order dated 04.01.2018 made in W.P.(MD) No10184 of 2013. The appellant filed the writ petition to direct the first respondent to consider his case for appointment to the post of Junior Assistant in accordance with the guidelines stipulated in G.O.Ms.No.206, Municipal Administration and Water Supply (Town Panchayats-1) Department dated 02.11.1995 after getting concurrence from the Tamil Nadu Public Service Commission/fourth respondent. The Writ Court closed the writ petition on the ground that the writ petitioner has to question the proceedings dated 25.01.2007 by which the claim made by the petitioner/appellant stated that he is entitled for appointment only in non provincialised post.

4.We have perused the said proceedings dated 25.01.2007 from which we find reason for taking such a stand is on account of the fact that the writ petitioner's father was working in a non provincialised post as a Sanitary Supervisor and died in harness on 21.06.2005. However, while issuing an order of appointment, there is no reference to the proceedings dated 25.01.2007 and the appellant came to be appointed as an Office Assistant in a regular post with the time scale of pay viz., 2550-3200. The only condition in the appointment order is that if it is found that the appellant has secured employment of compassionate ground by suppressing fact, the appointment is liable to be cancelled.

5.In these circumstances, the respondents would not be justified in concluding the appellant's eligibility to seek benefit of G.O.Ms.No.206 dated 02.11.1995. The appellant would place reliance on G.O.2(pa) No. 5, Municipal Administration and Water Supply (Town Panchayats-1) Department dated 11.01.2017 and would state that the benefit of government order accrued in favour of one



K.Kalyanasundar, who is also similarly placed person as that of the appellant.

6.In the light of the above, we are inclined to issue appropriate direction to the respondents to consider the case of the appellant as we have found that the appellant was appointed in a regular vacancy, in sanctioned post with time scale of pay and not in a non provincialised post. That apart, it is stated that there are other government orders where benefit has been extended to similarly placed persons.

7.In the light of the above, this appeal is allowed. The order impugned in this writ is set aside and there will be a direction to the third respondent to consider the appellant's representation dated 04.03.2013, wherein the appellant has placed reliance on a certificate and taking note of the contents of the representation and pass appropriate orders on merits and in accordance with law and forward the same to the respondents 1 and 2 for further action. The third respondent is directed to comply with the said direction, within a period of 12 weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

To

1.The Secretary to Government,
The Government of Tamil Nadu,
Municipal Administration and Water
Supply Department,
Fort St. George, Chennai.

2.The Director of Town Panchayats,
Kuralagam, Chennai.

3.The District Collector,
Sivaganga,
Sivagangai District.

+One cc to Mr.R.Sundar, Advocate, SR.No.51442
+One cc to the Special Government Pleader, SR.No.51907
Arul
RL/6C/3p/KK/SAR4/12/3/2018

Judgment made in
W.A(MD) No.269 of 2018