



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2018

CORAM:

THE HONOURABLE **DR. JUSTICE G. JAYACHANDRAN**

W.P. (MD) No.1110 of 2015

and

M.P. (MD) Nos.1 and 2 of 2015

B.Sargunababu

... Petitioner

Vs.

1. The State of Tamil Nadu
Represented through its
Secretary to the Government,
Municipal Administration and
Water Supply Department,
St.George Fort, Chennai.
2. The Commissioner,
Municipal Administration
and Water Supply Department,
Ezhilagam Annexure,
Chepauk, Chennai.
3. The Commissioner,
Madurai Corporation,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire proceedings of the third respondent in Ma.Nee.2/04141/2014, dated 01.10.2014 and quash the same as illegal and to further direct the third respondent to appoint the petitioner in the post of Assistant Engineer (Civil) in the third respondent Corporation.

For Petitioner : Mr.P.Pethu Rajesh

For R1 and R2 : Mr.A.Muthukaruppan
Additional Government Pleader

For R3 : Mr.J.Gunaseelan Muthiah

ORDER

Heard the learned Counsel for the petitioner, the learned Additional Government Pleader for the first and second respondents and the learned Counsel for the third respondents.



Corporation. His name was sponsored by the Employment Exchange based on his seniority. Out of 12 post, 3 post were reserved for Backward Community category. He stood fourth among the Backward Community in the seniority list. One Adidtha Kumar stood first among the Backward Community candidates, he did not join the post. The third respondent ought to have issued appointment order to the petitioner herein being the next in the seniority list and first in the reserve list.

3. However, he was not given appointment order in view of the subsequent ban imposed by the State Government. The said ban was lifted in 2006, the petitioner had continuously given representations to the respondents and approached the Court by way of writ petition to consider and pass appropriate orders. Pursuant to Court direction, the third respondent has passed the impugned order rejecting the representation on the ground that the petitioner herein was not kept under the reserved list to consider, after Adidtha Kumar failed to report duty. Further, it is also stated that in the year 2012, when the third respondent Corporation called for eligible candidates from the Employment Exchange, the Employment Exchange has not sponsored the name of the petitioner. Therefore, he was not considered during the subsequent recruitment, which was held in the year 2012.

4. In the said circumstances, the third respondent has rejected the representation of the petitioner observing that in future, if there is any vacancy in the post of Assistant Engineer, the name of the petitioner is sponsored by the Employment Exchange, he will be considered.

5. The third respondent has also filed counter reiterating the reasons given in the impugned order for not considering the name of the petitioner herein for the post of Assistant Engineer, though, he was next in the list of seniority. The entire facts of the case revolve around sponsoring of eligible candidates by the Employment Exchange. It is specifically stated in the counter that during the subsequent recruitment held in 2012, the name of the writ petitioner had not been sponsored by the Employment Exchange.

6. The petitioner herein is not in a position to explain why his name was not sponsored by the Employment Exchange. Further each recruitment should be based on eligible candidates and on merits. Just because, the petitioner herein was fourth in the list of rank out of three post in the Backward Community category during previous recruitment, he cannot claim any priority in the subsequent recruitment. He has to compete with the aspirants according to his merit and if there is any weightage in the Employment Exchange seniority, he can take advantage of the same, depending upon the process of the recruitment. Therefore, the petitioner cannot seek any lien in the recruitment in view of the fact that his name was in the reserve list during the previous recruitment. As pointed out in the impugned order, in future recruitment, if the petitioner is found eligible, the third respondent has assured that his candidature will be considered.



7. recording the said assurance, the writ petition is dismissed
No costs. Consequently, connected miscellaneous petitions are
closed.

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Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1.

The Secretary to the Government,
Municipal Administration and
Water Supply Department,
St.George Fort, Chennai.

2.

The Commissioner,
Municipal Administration
and Water Supply Department,
Ezhilagam Annexure,
Chepauk, Chennai.

3.

The Commissioner,
Madurai Corporation,
Madurai.

+1cc to Mr.P.Pethu Rajesh ,Advocate Sr.No.96933

+1cc to Mr.J.Gunaseelan Muthiah ,Advocate Sr.No.96901

CMR

KM/BK/SAR2/26.12.2018/3P/6C

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