



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2018

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD) No.11897 of 2018

P.Venkatraman

... Petitioner

-vs-

1.The Commissioner of Municipal Administration
Chepauk, Chennai.

2.The Regional Director of Municipal Administration
Tirunelveli

3.The Commissioner
Puliyankudi Municipality
Puliyankudi, Tirunelveli District.

4.K.Pitchaia Bhaskar
Sanitary Inspector
Puliyankudi Municipality
Puliyankudi
Tirunelveli District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 3rd respondent to implement the order of transfer issued by the 1st respondent in proceedings Roc.No.9286/J1/2018 dated 10.04.2018 by permitting the petitioner to join in the post of Sanitary Inspector at Puliyankudi Municipality with all consequential service and monetary benefits including the payment of salary for the months of April and May 2018.

For Petitioner : Mr.R.Premnarayan

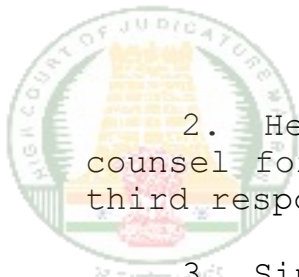
For Respondents: Mr.K.Saravanan

Government Advocate for R1 & R2

Mr.M.Rajarajan for R3

O R D E R

The prayer in the writ petition is for a Writ of Mandamus to direct the 3rd respondent to implement the order of transfer issued by the 1st respondent in proceedings Roc.No.9286/J1/2018 dated 10.04.2018 by permitting the petitioner to join in the post of Sanitary Inspector at Puliyankudi Municipality with all consequential service and monetary benefits including the payment of salary for the months of April and May 2018.



2. Heard the learned counsel for the petitioner, learned counsel for the respondents 1 and 2 and the learned counsel for the third respondent.

3. Since no adverse order is going to be passed against the fourth respondent, notice to the fourth respondent is dispensed with.

4. The first respondent passed an order in Roc. No.9286/J1/2018 dated 10.04.2018, by which, some transfers at the level of Sanitary Inspectors have been made. 12 such Sanitary Inspectors had been given transfers in the said proceedings, wherein, at Sl.No.6, the petitioner has been shown to have been transferred from Sankarankoil Municipality to the third respondent Municipality (Puliyangudi Municipality). Even though the said order of transfer was issued by the first respondent, who is the competent authority and the petitioner also was ready and willing to join the transferred place, namely, third respondent Municipality, it is the complaint and claim of the petitioner that the third respondent Municipality did not permit the petitioner to join there, as the erstwhile incumbent one K.Pitchaiah Baskar, the fourth respondent herein, who was working as a Sanitary Inspector at the third respondent Municipality, had not vacated the position, as he did not join the Sankarankoil Municipality, where he was transferred under the very same proceeding of the first respondent. Only at this juncture, the petitioner has approached this Court with the aforesaid prayer.

5. On notice, the learned counsel appearing for the third respondent Municipality had submitted that the petitioner would be permitted to join at the third respondent Municipality forthwith and in order to obey the said order of transfer dated 10.04.2018, the third respondent Municipality took some time as the fourth respondent had gone for training at that time. Therefore, the order of transfer could not be implemented. Subsequently, by proceeding dated 08.06.2018, issued by the third respondent, the petitioner has been permitted to join at the third respondent Municipality in the forenoon on 11.06.2018. On the very same day, ie., on 08.06.2018, the third respondent had issued further proceedings, whereby, it directed the fourth respondent to hand over the charge to the petitioner.

6. Pursuant to the said proceedings issued by the third respondent, the fourth respondent had handed over the charge to the petitioner on 12.06.2018 and in this regard, the charge handing over documents have been signed both by the petitioner as well as the fourth respondent.

7. During last hearing, on 19.06.2018, the learned counsel for the petitioner, by relying upon the documents in this regard, especially, the proceeding issued by the third respondent dated 11.06.2018 in Na.Ka.No.1390/2018/C1 had submitted that though the petitioner had been handed over the charge by the fourth respondent on 12.06.2018 and he had taken charge of the said post of Sanitary



Inspector at the third respondent Municipality, further proceedings dated 11.06.2018, referred to above had been served on the petitioner on 13.06.2018, thereby, the fourth respondent has once again been directed to hand over the charge to one Eswaran, Sanitary Inspector.

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8. Raising objections to the said proceeding, the learned counsel for the petitioner submitted during last hearing that after having handed over the charge to the petitioner, as per the order of transfer dated 10.04.2018, passed by the first respondent and the subsequent proceeding permitting the petitioner to join, by the proceeding of the third respondent dated 08.06.2018, one more proceeding dated 11.06.2018, as the one referred to above, would not have been issued and that too directing the fourth respondent to hand over the charge to one Eswaran.

9. In view of the said development, this Court, during the last hearing ie., on 19.06.2018, has given the following directions:

"The third respondent Municipality has passed an order, dated 08.06.2018, permitting the petitioner to join at that Municipality as Sanitary Inspector. Pursuant to which, the petitioner joined there. On the very same day, the erstwhile incumbent Mr.K.Pitchaia Bhaskar, who is the fourth respondent herein, has been directed to hand over the charge to the petitioner. Pursuant to the same, on 12.06.2018 the fourth respondent had handed over the charge to the petitioner and all the documents, which were in the custody of the fourth respondent, have also been handed over to the petitioner and in this regard, both the petitioner as well as the fourth respondent had signed the documents on 12.06.2018.

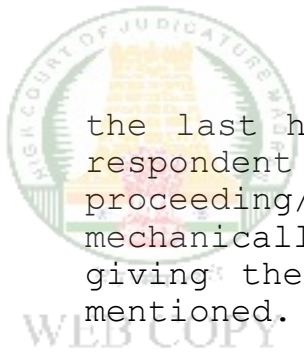
2.However, the petitioner has been subsequently served with proceedings by the very same Commissioner of the third respondent Municipality, dated 11.06.2018 directing the very same fourth respondent to hand over the charge to one Eswaran. On what basis, the said order dated 11.06.2018 was served on the petitioner on 13.06.2018, has not been explained by the Standing Counsel appearing on behalf of the third respondent Municipality before this Court.

3.Therefore, the Standing Counsel appearing for the third respondent Municipality shall produce the relevant files and records before this Court on 21.06.2018.

4.Post the matter on 21.06.2018 at the end of the motion list."

<https://hcservices.ecourts.gov.in/hcservices/>

10. Pursuant to the said directive issued by this Court during



the last hearing date, the learned standing counsel for the third respondent Municipality has produced the files and argued that the proceeding/order dated 11.06.2018 as referred to above had been mechanically issued by the third respondent, wherein, instead of giving the name of the petitioner, name of one Eswaran had been mentioned.

11. In this regard, the learned standing counsel would submit that the post of Sanitary Inspector held by the fourth respondent at the third respondent Municipality was in-charge of multiple works including garbage section/fertilizer decomposed yard. Therefore, only in order to hand over the said charge also to the petitioner, instead of the name of the petitioner in the said proceeding dated 11.06.2018 in Na.Ka.No.1390/2018/C1, the third respondent, who had, due to inadvertence, mistakenly given the name of one Eswaran and that created a confusion. In this regard, the learned counsel for the third respondent would submit that, the petitioner alone would be the Sanitary Inspector to look after all the in-charge of Sanitary Inspector post, which was held by the fourth respondent hitherto and therefore, what are all the areas handled by the said fourth respondent has necessarily to be handled by the petitioner and in order to hand over the decomposed yard/garbage section also, such order was passed and the mistake was instead of naming the petitioner, the name of Eswaran had been mentioned. Therefore, the learned counsel for the third respondent would submit that the third respondent Municipality immediately would issue a revised order instead of the order dated 11.06.2018 in Na.Ka.No. 1390/2018/C1 and that order would be served immediately on the petitioner, based on which, he would also handle the garbage section as well as decomposed yard of the third respondent Municipality.

12. The learned counsel for the petitioner has raised another issue by citing that, even though the petitioner was ready and willing to join at the third respondent Municipality pursuant to the order of transfer passed by the first respondent, from April onwards, the third respondent Municipality alone had delayed permitting the petitioner to join duty, because of the reason that the fourth respondent had gone for training. The said delay caused by the third respondent Municipality cannot be attributed on the petitioner and therefore, the petitioner would be entitled to claim the salary for the said period, ie., from the date of transfer till the date, he attending at the third respondent Municipality.

13. I find force in the said contention made by the learned counsel for the petitioner.

14. As the reason for delayed attending at the third respondent Municipality by the petitioner is not because of the petitioner, but only because of the third respondent Municipality, who has admitted the said delay, as the fourth respondent had been away from the third respondent Municipality, because of training.



15. In view of the aforesaid developments, facts and circumstances of the case, this Court is inclined to pass the following order for disposing of the writ petition:

"That the third respondent Municipality shall issue a revised order instead of the name of one Eswaran Sanitary Inspector, include the name of the petitioner to hand over the charge of the garbage section/decomposed yard also apart from other charges, which had also been handed over to him, by making necessary corrections in the revised order by withdrawing the earlier order dated 11.06.2018 in Na.Ka.No.1390/2018/C1. Such revised order shall be forthwith passed and served on the petitioner and accordingly, the petitioner shall be permitted to continue his work as Sanitary Inspector at the third respondent Municipality ; and

2. With regard to the salary payable to the petitioner from the date of transfer till the date he joined duty at the third respondent Municipality, a formal request shall be made by the petitioner immediately, to the third respondent Municipality and on receipt of the same, the said salary of the petitioner shall be disbursed by the third respondent Municipality within a period of one week thereafter."

16. With the above observations and directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar(CS-I)

To:

1.The Commissioner of Municipal Administration
Chepauk, Chennai.

2.The Regional Director of Municipal Administration
Tirunelveli

3.The Commissioner
Puliyankudi Municipality
Puliyankudi, Tirunelveli District.

+1cc to Special Government Pleader, SR.No.69584

+1cc to Mr.R.Premnarayan Advocate in SR.No.69514

+1cc to Mr.M.Rajarajan Advocate in SR.No.69471

W.P.(MD) No.11897 of 2018
22.06.2018

RR