



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 01.03.2018
CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P. (MD) .Nos.21757 of 2015 & 12834 of 2016
& WP(MD)No.2113 of 2018
and

MP(MD)No.1 of 2015 & WMP(MD)No.9443, 9704, 9705 of 2016

WP(MD)No.21757 of 2015 :

G.Sakthivel

...Petitioner

Vs.

1. The Commissioner,
Kovilpatti Municipality,
Kovilpatti, Tuticorin District.

2.M.Pavunraj

...Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to promote the petitioner as Sanitary Supervisor in first respondent municipality by strictly following the seniority as per the provisions of the Tamil Nadu Municipal (Non Centralized Regular) Public Health Establishment Regulations, 1976 and consequently forbearing the first respondent from promoting the second respondent or junior to him as Sanitary Supervisor by defeating the petitioner's promotion.

WP(MD)No.12834 of 2016 :

G.Sakthivel

...Petitioner

Vs.

1. The Commissioner,
Kovilpatti Municipality,
Kovilpatti, Tuticorin District.

2.Jansirani

3.M.Pavunraj

...Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records in relating to the impugned charge memo dated 29.06.2016 in Na.Ka.No.2166/2016/H1 issued by the first respondent which was served to the petitioner on



02.07.2016 and quash the same and consequently directing the first respondent to promote the petitioner as Sanitary Supervisor in first respondent municipality forthwith.

WP(MD)No.2113 of 2018 :

M.Pavunraj

...Petitioner

Vs.

The Commissioner,
Kovilpatti Municipality,
Kovilpatti, Tuticorin District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondent municipality by following the seniority as per the provisions of the Tamil Nadu Municipal (Not Centralized Regular) Public Health Establishment Regulations, 1976, based on my representation dated 05.06.2017 within the time limit that may be stipulated by this Court.

In WP(MD)No.21757 of 2015 & 12834 of 2016 :

For Petitioner	: Mr.P.Santhoshkumar
For Respondents	: Mr.M.Saravanan for R1 Mr.P.Jegadeesh for R2

in WP(MD)No.2113 of 2018 :

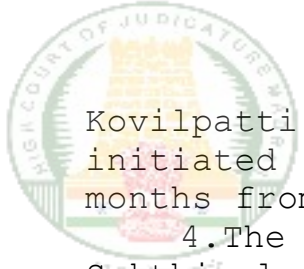
For Petitioner	: Mr.Thalaimutharasu
For Respondent	: Mr.P.Srinivas

COMMON ORDER

Heard the learned counsel for the parties.

2. There are totally three writ petitions listed for final disposal before this Court today. WP(MD)No.2113 of 2018 has been filed by one Pavunraj. One Sakthivel is the writ petitioner in WP (MD)No.21757 of 2015 and WP(MD)No.12834 of 2016. Both Pavunraj and Sakthivel are presently working as Sanitary Workers in Kovilpatti Municipality. Sakthivel became Sanitary Worker in the year 2006. Pavunraj became Sanitary Worker in the year 2007.

3. It is not in dispute that Sakthivel is immediately senior to Pavunraj. There is one vacancy in the post of Sanitary Supervisor. Sakthivel cannot be promoted to the said post for the present on account of the pendency of criminal case against him and also pendency of the disciplinary action initiated against him. A writ of Mandamus can be quashed only on certain limited grounds. However, a direction can be given to the Commissioner of



Kovilpatti Municipality to conclude the disciplinary action initiated against the said Sakthivel within a period of four months from the date of receipt of a copy of this order.

4.The learned standing counsel for municipality submits that Sakthivel is yet to furnish his explanation. Thiru.Sakthivel is directed to offer his explanation forthwith. If such explanation is not forthcoming, it is open to the disciplinary authority to proceed further in the matter. Likewise, a direction is given to the learned Judicial Magistrate No.1, Kovilpatti to conclude the criminal case pending against Sakthivel in CC No.72 of 2016 within a period of four months from the date of receipt of a copy of this order.

5.It is made clear that any promotion given to the eligible candidates in the meanwhile will have to necessarily abide by the outcome of the disciplinary action as well as the criminal case initiated against Sakthivel. Thiru.Pavunraj in his writ petition only wants the municipality to follow the seniority as per the statutory regulations based on the representation dated 05.06.2017. The Commissioner, Kovilpatti Municipality is directed to consider the said representation and pass orders thereon within a period of four weeks from the date of receipt of a copy of this order.

6.All these writ petitions are accordingly disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.1, Kovilpatti.

2.The Commissioner,
Kovilpatti Municipality,
Kovilpatti, Tuticorin District.

+ 1 cc TO Mr.P.Srinivas , Advocate in SR No. 52244
+ 1 cc TO Mr.M.Saravanan , Advocate in SR No. 52611
+ 1 cc TO Mr.P.Santhoshkumar , Advocate in SR No. 52378

Skm

AE/KKR/SAR2/31.05.2018/3P/6C

**W.P. (MD) .Nos.21757 of 2015
& 12834 of 2016
& WP (MD) No.2113 of 2018
01.03.2018**