

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.11.2019

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

W.P.No.29659 of 2007

Dunna Erriya

...Petitioner

Versus

1.The Director,
Local Administration Department,
Puducherry.

2.The Commissioner,
Yanam Municipality,
Yanam.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondents with G.O.Ms.No.1/95-96/LAS dated 03.04.1995 and to quash the same in respect of Para Nos.9 & 12 of the Recruitment Rules for the post of Sanitary Maistry Gr.II and consequently, to direct the respondents to make the post of Sanitary Maistry Gr.II as promotional avenue to the post of Sanitary Worker.

For Petitioner : Ms.A.Lilly Victoria
for Mr.V.Ajayakumar

For Respondents : Mr.G.Djearany
Government Advocate (Puducherry)

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O R D E R

With the consent of both sides, this writ petition is taken up for final disposal.

2. The relief sought for in the present writ petition is to call for the records of the respondents with G.O.Ms.No.1/95-96/LAS dated 03.04.1995 and to quash the same in respect of Paragraph Nos.9 & 12 of the Recruitment Rules for the post of Sanitary Maistry Gr.II and consequently, to direct the respondents to make the post of Sanitary Maistry Gr.II as promotional avenue to the post of Sanitary Worker.

3. It is the case that the petitioner who belongs to Scheduled Caste community, joined the service as Sanitary Worker in the Yanam Municipality on 04.11.1980 and he completed more than 27 years of service.

3.1 While so, the respondents issued a seniority list for the post of Sanitary Worker in which the petitioner's name was placed at Sl.No.4 and out of the three persons, who were placed above him viz., Mr.P.Krishnamurthy (Sl.No.1) and P.Massenu (Sl.No.3) expired and Mr.L.Subba Rao placed at S.No.2 have already been promoted. The petitioner is the senior most candidate available for promotion to the post of Sanitary Maistry Gr.II and he is entitled to the said post on the ground that he belongs to Scheduled Caste category.

3.2 As per the Recruitment Rules 1995, the qualification prescribed for promotion to the post of Sanitary Maistry Gr.II was only literacy with sufficient experience. However, after the amendment of Recruitment Rules 1994, the qualification prescribed for promotion to the post of Sanitary Maistry Gr.II is a pass in S.S.L.C and Certificate in Sanitary Inspector's course. The Column No.9 of the Schedule - V, Recruitment Rules for the post of Sanitary Maistry Grade - II provides that the educational qualification was applicable for promotees as well; Column No.11 provides that the method of appointment is by promotion, failing which by direct recruitment; Column No.12 provides that the promotion is to be given from the post of Group 'D' employees possessing pass in S.S.L.C or equivalent with two years of regular service in the grade failing which by promotion from the grade of Sanitary Worker who have passed VIII Standard with six years of regular service.

3.3 The petitioner passed the VIII Standard and possess the required qualification of six years of service. Though he submitted several representations to the concerned Authorities claiming promotion, however, the same were not considered by them. Hence, the petitioner has filed the present writ petition for the relief stated supra.

4. The learned counsel for the petitioner submitted that the petitioner is fully eligible for promotion to the post of Sanitary Maistry Grade - II but he was not yet promoted to the said post. She further submitted that Column Nos.9 & 12 of the amended Recruitment Rules for the post of Sanitary Maistry Gr.II act as a barrier to the petitioner for obtaining his promotion and therefore, the same is liable to be quashed.

5. The learned Government Advocate (Puducherry) appearing for the respondents submitted that in the counter affidavit, the second respondent has stated that no evidence available in the petitioner's records i.e., Transfer Certificate and Service Book maintained by the second respondent office shows that the petitioner passed VIII Standard. Hence, he was not considered for promotion to the post of Sanitary Maistry Gr.II. She further submitted that the petitioner has not yet filed any reply affidavit denying the averments in the counter affidavit. She therefore prayed that the present writ petition is liable to be dismissed.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Puducherry) appearing for the respondents and perused the materials available on record.

7. On perusing the materials produced by the learned counsel on both sides, this Court found that in Column No.7(b) of the petitioner's School Transfer Certificate dated 19.06.1964 filed by the petitioner in the form of typed set of papers, it was mentioned that VIII Pass. Per Contra, in a Photocopy of the petitioner's School Transfer Certificate produced by the learned Government Advocate (Puducherry), it was mentioned as VIII Class. Apart from that, the Admission Number mentioned in the petitioner's School Transfer Certificate produced by the learned counsel on both sides respectively is entirely different from one another.

7.1 On comparing the both certificates, this Court came to know that the Transfer Certificate produced on the side of the petitioner is not the original. The petitioner has not approached the Court with clean hands and he is also trying to mislead the Court by filing duplicate documents in the form of typed set of papers. This Court cannot appreciate such kind of fake documents being filed before it and wants to impose heavy cost on the petitioner for his fraudulent act. However, considering the petitioner's nature of job and the financial background of his family, no cost will be imposed on him.

8. In the result, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

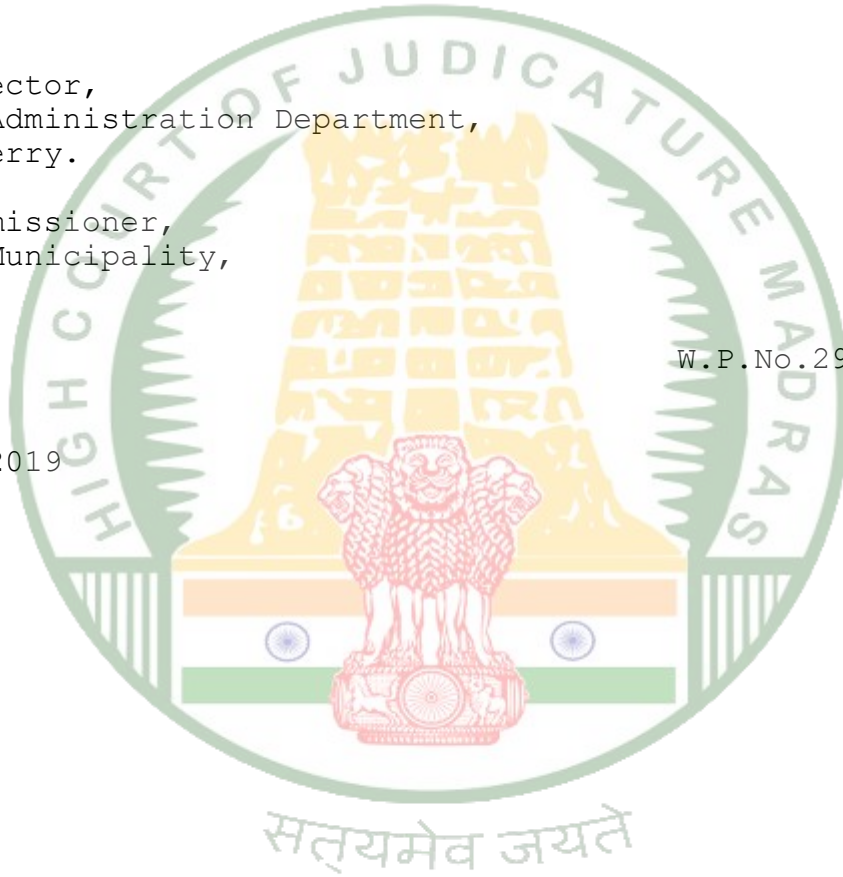
To

1.The Director,
Local Administration Department,
Puducherry.

2.The Commissioner,
Yanam Municipality,
Yanam.

W.P.No.29659 of 2007

vba (co)
nr 27/12/2019



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