

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.27886 of 2008

G.Vijayalaxmi

... Petitioner

Vs

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

2. The Commissioner of Municipal
Administration, Chennai-5.

3. The Commissioner,
Coimbatore Corporation,
Coimbatore.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to consider the petitioner's representation dated 26.09.2007 and to place the petitioner name in the inter-se-seniority list of the Assistant Engineer/Junior Engineer fit for promotion to the post of Assistant Executive Engineer in the Coimbatore City Municipal Corporation at the appropriate place within a stipulated period.

For Petitioner : Mr.P.Gopiraja

For Respondents : Mr.K.Ravi Kumar, AGP
1 and 2

For 3rd respondent: Mr.R.Siva Kumar

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O R D E R

This Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents herein to consider the petitioner's representation dated 26.09.2007 and to place the petitioner name in the inter-se-seniority list of the Assistant Engineer/Junior Engineer fit for promotion to the post of Assistant Executive Engineer in the Coimbatore City Municipal

Corporation at the appropriate place within a stipulated period.

2. Learned Counsel appearing for the petitioner submitted that the petitioner G.Vijayalaxmi, who was appointed as Town Planning Inspector in the Uthagamandalam Municipality on 11.11.1991, was transferred to Salem Municipal Corporation by Proceedings in Na.Ka.No.43621/92/T.P.4 dated 26.06.1992. Thereafter, he was also promoted to the post of Junior Engineer w.e.f. 01.02.1997. On her request, again, she was transferred from Salem Municipal Corporation to the Coimbatore Municipal Corporation as Junior Engineer from 22.06.2004. In the meanwhile, the Commissioner, Corporation of Coimbatore, Coimbatore, the 3rd respondent herein, prepared a Seniority List of Junior Engineers/Assistant Engineers fit for promotion to the post of Assistant Executive Engineers in the Coimbatore Municipal Corporation, placing the name of the petitioner in Sl.No.29 instead of Sl.No.14.

3. The learned Counsel for the petitioner further submitted that on the basis of her promotion to the post of Junior Engineer on 01.02.1997, the name of the petitioner has to be placed in 14th place in the seniority list. Therefore, she made a representation on 05.01.2007 and again on 25.07.2007 to the respondents requesting them to place her name in the seniority list at the appropriate place. But without considering the petitioner's representations, the 3rd respondent published a Seniority List of Junior Engineers/Assistant Engineers in their Proceedings Na.Ka.No.177768/06/MC1 dated 04.07.2007. In the said seniority list, the name of one Assistant Engineer by name Manoharan, who became Assistant Engineer only subsequent to her promotion i.e. on 14.4.1997 was placed in the Serial No.14 whereas the petitioner who was promoted as Junior Engineer on 01.02.1997 itself, her name was placed in the Seniority List at Serial No.29. Therefore, a representation dated 26.09.2007 was submitted to the respondents. But the same has not been considered. Hence, the petitioner has preferred the present Writ Petition.

4. A detailed Counter Affidavit has been filed by the 3rd respondent.

5. Mr.R.Siva Kumar, learned Standing Counsel appearing for the 3rd respondent referring to the stand taken in paragraph 5 of the counter affidavit submitted that the contention made by the petitioner against the final seniority list dated 04.07.2007, the petitioner made a representation on 26.09.2007 cannot be correct, because there was no such representation ever received by the 3rd respondent. Moreover, her earlier representation dated 05.01.2007 on the same subject was considered and the same was rejected and accordingly, Final

Seniority List dated 04.07.2007 came to be issued. Without challenging the Final Seniority List, if the petitioner is aggrieved, she cannot maintain any subsequent representation. Anyhow, the petitioner has also made a further representation dated 19.01.2009 with request to transfer her back to Salem Corporation itself. That request has already been considered by the Council and by Resolution No.156 dated 29.12.2009, she was retransferred to Salem Corporation. Therefore, the name of the petitioner in the Seniority List has also been retransferred from Coimbatore City Municipal Corporation to Salem Municipal Corporation. But, without impleading the Salem Corporation, the petitioner cannot maintain the present Writ Petition. Secondly, while effecting retransfer to the petitioner to Salem Corporation, She was also given promotion as Assistant Executing Engineer (Planning) by the Proceedings of the 3rd respondent dated 20.09.2018 and a direction was also issued to join in the promoted post. Therefore, this Court finds no merits in the Writ Petition.

6. In the result, the Writ Petition fails and the same is accordingly dismissed. No costs.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

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

2. The Commissioner of Municipal
Administration, Chennai-5.

3. The Commissioner,
Coimbatore Corporation,
Coimbatore.

+1cc to Mr.R.Sivakumar, Advocate SR.No.25296

W.P.No.27886 of 2008

GJ(CO)

GMV(23/04/2019)