

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE SUBRAMONIUM PRASAD

WP.No.3143 of 2010

R.Ramesh

... Petitioner

-Vs-

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

2.The Director of Municipal Administration,
Chepauk, Chennai.

3.The Executive Officer,
Valparai Third Grade Municipality,
Valparai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent in its proceedings in Roc.No.37054/07/F3 dated 23.9.2009 and quash the same and direct the 2nd respondent to appoint the petitioner as Work Inspector pursuant to sanction of posts vide G.O.Ms.No.73 dated 20.05.2009.

For Petitioner : Mr.R.Sagadevan

For Respondents: Ms.K.Bhuvaneswari,
AGP for R1 & R2

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ORDER

This writ petition has been filed to call for the records of the second respondent in its proceedings in Roc.No.37054/07/F3 dated 23.9.2009 and quash the same and direct the 2nd respondent to appoint the petitioner as Work Inspector pursuant to sanction of posts vide G.O.Ms.No.73 dated 20.05.2009.

2. The petitioner is a Diploma Holder in Civil Engineering. He joined service in August 1998 in the Valparai Town Panchayat as Technical Assistant. A few years back, the Valparai Town Panchayat was converted into 3rd grade Municipality and comes under the control of the Commissioner of Municipal Administration viz., second respondent herein.

3. The Government sanctioned about 250 new posts of Work Inspectors. The Technical Assistants holding Diplomas/degrees in Engineering were to be considered to be appointed as Work Inspectors. The Government issued requisite Government Orders, wherein, it was proposed to appoint the existing Technical Assistants, who were working in the 3rd grade municipalities. The conditions stipulated were that persons must have qualifications of Diploma in Civil Engineering and they must have been appointed prior to 29.11.2001. The petitioner fulfilled both the conditions.

4. The petitioner was not included in the panel for being appointed as Work Inspectors. The petitioner, thereafter, sent a representation on 08.06.2009 to the respondents 1 and 2 seeking to include his name. Since no action has been taken on the said representation, the petitioner filed a writ petition in WP.No.11379 of 2009. This Court, by an order dated 04.08.2009, observed that the petitioner was qualified and eligible for the post of Work Inspector as he was having necessary qualifications in Diploma in Civil Engineering and the petitioner had been appointed prior to 2001. The Court directed that the petitioner be appointed as Work Inspector if he had the necessary qualification. It is also noticed by this Court that the Executive Officer, Valparai had sent a proposal to the second respondent on 06.07.2009 for appointing the petitioner to the post of Work Inspector and the proposal is pending on the file of the Director of Municipal Administration, Chempauk, Chennai/the second respondent herein. This Court, therefore, directed the second respondent therein i.e, The Director of Municipal Administration, Chempauk, Chennai to pass orders on the representation of the petitioner dated 08.06.2009 in the light of the G.O.Ms.No.73 dated 20.05.2009 and in the light of the proposal of the Executive Officer, III Grade Municipality dated 06.07.2009 and pass orders within a period of four weeks. In compliance with the order of this Court, the Director, Municipal Administration, Chennai, has passed the impugned order stating that the name of the petitioner was not recommended by the Executive Officer, Valparai and also by the Regional Director of Municipal Administration, Tiruppur and therefore, the petitioner's name was not included in the consolidated report of the office. The impugned order also noticed that since the petitioner's name was not recommended, G.O.Ms.No.73 MA&WS Dept., dated 20.05.2009 was not applicable to him. Challenging the impugned order, this writ petition has been filed.

5. The learned counsel for the petitioner has filed the proceedings bearing No.Na.Ka.No.845/2005/A - 2 dated 22.05.2007, the entire proceedings is extracted hereunder:-

"Mr.Ramesh, who is working as a technical assistant in the Valparai (III Grade) Minicipality on the Temporary basis from the year 1998 and further works on the daily wages continuously in the Engineering Department.

As per Ref.No.1 Government order working in Panchayat since 31.12.1996 on temporary basis considered for absorption based on which the said Ramesh is working as a Technical Assistant from the year 1998 on the temporary basis.

As per Ref. No.2 Commissioner of Municipal Administration, Chennai vide its Proceedings in Na.Ka.2614/2005/S-4 dated 10.03.2005 Technical assistants working in the Engineering department at Entry Level Post the Report has been sent to them in appropriate form.

As per Ref.No.3 the Regional Director of Municipal Administration, as per the Inspection meeting recommendation the Technical Assistant working in the Valparai Municipality on a temporary basis, Entry level post all details report has been forwarded or suitable action."

As mentioned in Ref.No.1 as per the Government order 125 dated 25.05.1999 the Technical assistants working on the temporary basis for 10 years to be made permanent and the said Ramesh is working as a Technical Assistant since 1998 hence his name has been hereby recommended to include in the consolidated report based on his seniority.

Whereas the said Ramesh working on Temporary basis is possess Diploma in Civil Engineering, as such e has a requisite educational qualification hence made a representation vide Reference No.6 to consider for appointment of work Inspector.

Therefore, the said Ramesh who is continuously working in this Municipality as a Technical Assistant on the Temporary basis as on date and further as per the Government Order cited above he has completed ten years of service in view of the same it is hereby humbly submitted he is eligible to consider for absorption on permanent basis as per the Government Rules." (emphasis supplied)

6. A perusal of the order extracted above shows that the petitioner's name was eligible to be considered for absorption on permanent basis in the above mentioned proceedings. The impugned order, therefore, has been passed without application of mind. The petitioner's name had been recommended in the proceedings extracted above and as noted by this Court vide order dated 04.08.2009.

7. In view of the above, the impugned order passed by the second respondent, therefore, has to be set aside. The second respondent is now directed to consider as if the petitioner's name has been recommended and that the petitioner has satisfied the other conditions mentioned in G.O.Ms.No.73 dated 20.05.2009 and he is eligible for being appointed as Work Inspector in the light of G.O.M.s.No.73. It is needless to mention that if the petitioner is found to be eligible, he has to be given appointment from the date, the persons similarly situated like the petitioner has been appointed as Work Inspector.

8. This Court does not appreciate the conduct of the Officers, who have passed the impugned order which is completely wrong and against facts, which has made the petitioner to approach the Court once again. In view of the above, this Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KMI

To:

- 1.The Secretary,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai.
- 2.The Director of Municipal Administration,
Chepauk,
Chennai.
- 3.The Executive Officer,
Valparai Third Grade Municipality,
Valparai.

+1cc to Mr.R.Sagadevan, Advocate SR.77839
+1cc to the Government Pleader SR.78459

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RSI (CO)
CB(30/10/2019)



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