

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.03.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.8999 of 2019

T.Mariappan

..Petitioner

vs

1.The Secretary,
Municipal Administration
Department of Drinking Water Supply
Government of Tamil Nadu
Secretariat, Chennai - 600 009

2.The Commissioner
Municipal Administration
Ezhilagam, Chepauk
Chennai - 600 005

3.The Commissioner
Pollachi Municipality
Pollachi - 642 001
Coimbatore District.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relevant to the order in Na.Ka.No.C1/3631/06 dated 13/05/2008 passed by the 3rd respondent and quash the same as illegal, unreasonable, arbitrary against the Rule of Law and Natural Justice and thereby direct the Respondents to appoint the Petitioner as Junior Assistant in the Respondents Pollachi Municipality at par with outsiders and prior to the juniors and pay back all the service and monetary benefits to the petitioner.

For Petitioner : M/s.K.Anbarasan

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader
for R1 & R2
Mr.V.Jayaprakash Narayanan
for R3

O R D E R

The order dated 13.05.2008 is under challenge in the present writ petition.

2.The order dated 13.05.2008 is an order of appointment, appointing the writ petitioner as Watchman in the time scale of pay. The said appointment was made pursuant to the award of the Labour Court and the orders of the Hon'ble High Court. The writ petitioner, accepting the order of appointment dated 13.05.2008 is serving in the Post of Watchman for the past about 11 years.

3.The grievances of the writ petitioner is that though he is eligible and qualified for appointment to the Post of Junior Assistant, the case of the writ petitioner has not been considered by the respondents. Thus, the writ petitioner is constrained to move the present writ petition.

4.Appointment or Promotion can never be claimed as a matter of legal right. All appointments or promotions are to be made strictly in accordance with the rules in force. Whenever the authorities competent decide to fill up the Post of Junior Assistant by way of promotion, then the cases of all the eligible persons are to be considered strictly in accordance with the rules. However, the claim of the writ petitioner that he is qualified and therefore, he must be appointed, deserves no merit consideration.

5.The learned counsel for the writ petitioner states that the similarly placed persons were considered for appointment to the Post of Junior Assistant.

6.However, this Court is of an opinion that such an argument cannot be accepted in view of the fact that in the event of any illegal or irregular appointment, that is to be challenged or such illegality or irregularity committed by the authorities, can never be followed as a Precedent. Thus, the appointment / Promotions are to be made strictly in accordance with the rules in force. If the writ petitioner is otherwise qualified and eligible and if the process of promotions are undertaken, then the case of the writ petitioner also can be considered along with all other eligible candidates, who all are aspiring to secure the Post of Junior Assistant in the respondent Organization. Thus, the writ petitioner has not established any legal right, so as to entertain the writ petition.

7.With these observations, the writ petition stands dismissed. However, there shall be no order as to costs.

kak

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary,
Municipal Administration
Department of Drinking Water Supply
Government of Tamil Nadu
Secretariat, Chennai - 600 009

2.The Commissioner
Municipal Administration
Ezhilagam, Chepauk
Chennai - 600 005

3.The Commissioner
Pollachi Municipality
Pollachi - 642 001
Coimbatore District.

+lcc to Mr.V.Jayaprakash Narayanan, Advocate, SR.No.29908/19
+lcc to the Govt.Pleader, Vide Sr.No.31042/19

W.P.No.8999 of 2019

Kak(15/05/2019)

WEB COPY