

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2019

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.9843 of 2015

Mr.Veerasamy

.. Petitioner

Vs.

1. The Commissioner,
Municipality Office,
Jayankondam,
Ariyalur District.
2. The Executive Officer,
Municipality Office,
Jayankondam,
Ariyalur District.
3. The District Director,
Municipal Administration,
No. 212, Gandhiji Vanika Valagam,
1st Floor, Gandhiji Salai,
Tanjavore.
4. The Commissioner,
Municipal Administration,
Chepauk, Chennai - 600 005. 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 of the 1st respondent proceedings in Na.Ka.No.1939/2014/E1 dated 10.11.2014 and quash the same and consequently direct the 1st respondent to give promotion to the petitioner.

For Petitioner : Ms.N.Beulah John Selvaraj
For Respondents : Mrs. K.Bhuvaneswari
Additional Government Pleader

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in proceedings in Na.Ka.No.1939/2014/E1 dated 10.11.2014 and quash the same and consequently direct the 1st respondent to give promotion to the petitioner.

2. The writ petitioner has joined the service of the Jeyakondam Municipality through Employment Exchange as a sweeper on 30.10.2006 and his service was regularized with effect from 01.11.2007. The petitioner has given several representations to the respondents on 11.02.2011 and 14.12.2011. The second representation was forwarded to the Director of Municipality/3rd respondent herein. Again, the petitioner gave a representation on 08.12.2014 and 15.12.2014 to consider the request of the petitioner, but the respondent has not considered the petitioner's representation. The learned counsel for the petitioner submitted that the petitioner has passed the Department test. Therefore, he was eligible for promotion to the post of Record Clerk and Revenue Assistant in the respondent's Municipality. The 1st respondent has rejected the said representation by stating that the respondent's Municipality has followed the ratio of 3:1 to fill up the vacancies by direct recruitment for the Revenue Assistant post in the respondent's Municipality. Hence, the writ petitioner has not been considered for the aforesaid promotion to the post of Revenue Assistant and Record Clerk. The reasons stated in the aforesaid order is contrary to the fact that the petitioner is eligible for the promotion to the post of Record Clerk and Revenue Assistant in the respondent's Municipality. Therefore the order impugned is liable to be quashed.

3. The counter affidavit has been filed by the first respondent stating that the petitioner has made a representation to promote him whenever there is a vacancy, but he did not take notice that he was appointed under the category of sanitary worker under Rule 17(3)(1) of the Tamil Nadu (non centralized regular)Public Health Establishment Regulations, 1976, i.e., the petitioner is eligible among the same service as sanitary supervisor only. His claim for promotion as Record Clerk and Revenue Assistant are all of other categories. There are four difference services:

1. Municipal General Service.
2. Municipal Engineering service.
3. Municipal Public Health Service.
4. Municipal Town Planning Service.

4. Each service has its separate service Rules, separate seniority, rotation etc., and the same cannot be interchanged, which affects the rotation and seniority of the employment. Both the posts mentioned by the petitioner seeking promotion (Record clerk and Revenue Assistant) are to be given from the last grade service from the Municipal General Service. Therefore, according to the respondents, there is no provision for appointing or transferring from other services. Hence, the said claim of the petitioner is frivolous and there is no rule for permitting the petitioner to seek promotion for the post of Record Clerk and Revenue Assistant in the respondent Municipality.

5. Further, the 1st respondent has stated in the counter affidavit that, as per the rules pertaining to the appointment of the said category, the respondent has to appoint three candidates from the direct recruitment and one from the promotions. Therefore, the petitioner is not eligible for promotion.

6. The said counter has been filed by the respondent's Municipality in the year 2015. Now the learned counsel for petitioner relied upon the documents and submitted that similarly placed persons were promoted by the Municipalities. The said contention cannot be taken, because no reply has been filed by the petitioner, in response to the counter affidavit. Therefore, there is no ground to interfere with the order passed by the respondent.

7. It is made clear that if the Government has passed any orders by amending the Rules for providing an eligibility for the promotion, it is for the petitioner to work out his remedy before the authority concerned.

8. I find no merits in this case, hence, this writ petition is dismissed. No costs.

Sd/-

सत्यमेव जयते Assistant Registrar

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Sub Assistant Registrar

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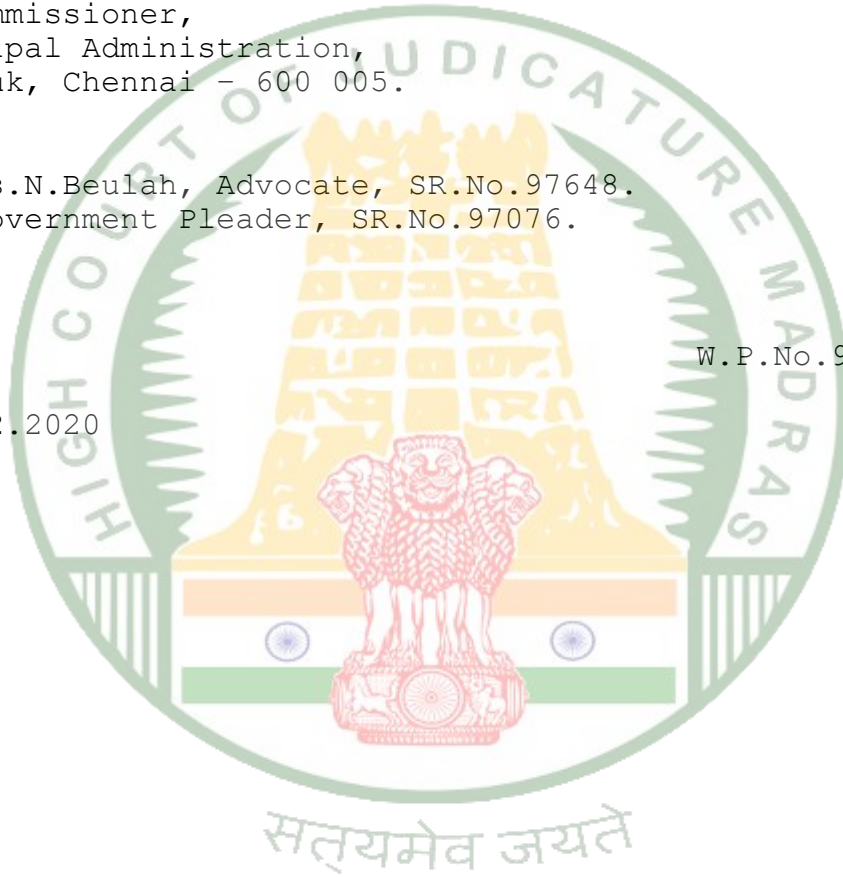
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+1cc to Ms.N.Beulah, Advocate, SR.No.97648.
+1cc to Government Pleader, SR.No.97076.

MR(CO)
CSR: 25.02.2020

W.P.No.9843 of 2015



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