

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2019

CORUM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MS.JUSTICE P.T.ASHA

Writ Appeal No.1767 of 2019

Bharathiraja

...Appellant

Vs.

1. The Government of Tamil Nadu
represented by its Secretary to Government,
Municipal Administration and Water Supply
Department, Fort St. George,
Chennai - 9.
2. The Secretary,
Tamil Nadu Public Service Commission,
Omanthoor Government Estate,
Anna Salai,
Chennai - 2.
3. The Director of Town Panchayat,
Kuralagam,
Chennai - 108
4. The District Collector,
Villupuram District.
5. The Commissioner,
Vikaravandi Town Panchayat,
Villupuram District.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the judgment in W.P.No.6278/2018 dated 15.03.2019 passed
by the learned single Judge of this Court.

W.P.No.6278 of 2018:

Writ Petition filed under Article 226 of the Constitution of
India praying to issue a Writ of Mandamus, directing the
Respondents to promote the petitioner to the post of Junior
Assistant.

For Appellants : Mr.M.Muruganantham

For Respondents: Mrs.A.Sri Jayanthi
Special Government Pleader

J U D G M E N T

(Judgment of the Court was made by K.K.SASIDHARAN, J.,)

The appellant was appointed as a sweeper on compassionate basis, consequent to the death of his father, who was a sweeper in Vikaravandi Town Panchayat. The appellant, ten years after such appointment, filed a writ petition claiming that he should have been appointed in the post of Junior Assistant on compassionate ground instead of appointing in the lower level post. The writ petition was dismissed by the learned single Judge. The said order is under challenge in this intra court appeal.

2. The learned counsel for the appellant contended that the appellant was qualified for appointment to the post of Junior Assistant. Therefore, he should have been appointed initially as Junior Assistant. According to the learned counsel since there was a vacant post of Junior Assistant, the appellant made a claim for the said post. It was further contended that the learned single Judge was not justified in dismissing the writ petition.

3. The appellant was appointed as a sweeper on compassionate ground vide proceedings dated 26.11.2008. The appellant has been working in the said post ever since his appointment. The appellant having found that there was one post of Junior Assistant vacant in the local body, made a claim for the said post. Since the request was not considered by the Town Panchayat, the appellant filed the writ petition.

4. The claim made by the appellant is on the basis of his qualification. It is the contention of the appellant that he was fully qualified for appointment to the post of Junior Assistant, even as on the date, on which, he was given appointment to the post of sweeper on compassionate ground.

5. There is absolutely no basis in the claim made by the appellant. There is no vested right to the appellant to claim employment in a post of his choice. The Scheme framed by the Government indicates the posts reserved for compassionate appointment. The Government has been making appointments only to the lower level posts. The fact that the appellant is over qualified would not give him a right to claim a superior post. The compassionate appointment given to the appellant itself was

a concession. The learned single Judge considered all these vital aspects and the writ petition was rightly dismissed.

6.The intra court appeal is dismissed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vsi

To

1. The Government of Tamil Nadu
represented by its Secretary to Government,
Municipal Administration and Water Supply
Department, Fort St. George,
Chennai - 9.
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5. The Commissioner,
Vikaravandi Town Panchayat,
Villupuram District.

+1 CC to Mr.M.Muruganantham, Advocate sr 46135.

+1 CC to Spl. Govt. Pleader sr 46903.

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SP(25/07/2019)