

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.03.2019
CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
And
THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.A.No.97 of 2017
and
C.M.P.No.1698 of 2017

V.Chandran

... Appellant

Vs.

1.The Commissioner,
Salem City Municipal Corporation,
Salem - 636 007.

2.K.Senthil Kumar
3.S.Senthil Kumar
4.R.Senthil Kumar

5.The Government of Tamil Nadu,
Rep.by its Principal Secretary,
Municipal Administration and
Water Supply Department,
Fort St.George,
Chennai - 600 009.

... Respondents

(5th respondent impleaded as party respondent
vide order of this Court dated 29.06.2017
in C.M.P.No.8797 of 2017 in W.A.No.97 of 2017)

Prayer:

Writ appeal filed under Clause 15 of the Letters Patent
against the order dated 05.01.2017 made in W.P.No.4730 of 2015.

Prayer in W.P.No.4730 of 2015:-Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified mandamus calling for the records relating to the impugned proposal of the respondent issued in No.C3/2321/2015 dt 17.2.2015 and quash the same and consequently direct the respondent to consider the name of the petitioner for promotion as Assistant Executive Engineer by following the 3:1 ratio in the light of the orders issued by the Government in Letter No. 46851/MCV/2001-1 M.A. & W.S. Department dt 8.3.2002 and also in the light of the undertaking already given by the respondent in W.P. No. 4193 of 2012 dt 29.06.2012.

For Appellant : Mr.Kandhan Duraisamy

For Respondents: Mr.S.Diwakar for R1

Mr.T.Ranganathan for R3

Ms.AL.Ganthimathi for R4

Mrs.A.Srijeyanthi
Special Government Pleader for R5
R2 not ready notice

J U D G M E N T

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

The writ petition filed by the appellant in W.P.No.4730 of 2015 challenging the proposal dated 17.02.2015 and to direct the Commissioner, Salem City Municipal Corporation to consider his name for promotion to the post of Assistant Executive Engineer by following the 3 : 1 ratio, taking into account the Government Letter dated 08.03.2002 was dismissed by the learned Single Judge.

2. The learned Single Judge in Paragraph No.10 of the order made an observation that the Government Order in G.O.Ms.No.38, Municipal Administration and Water Supply (M.E.III) Department, dated 22.02.2010 is not applicable to the case on hand. According to the learned Single Judge, the appellant is governed by the Tamil Nadu Municipal Corporation Engineering Service Rules issued in G.O.Ms.No.237, Municipal Administration and Water Supply (Election) Department, dated 26.09.1996.

3. Before the Division Bench, the appellant took up a contention that two different stand was taken by the Salem Corporation before two different Forums. The Division Bench therefore passed an order dated 03.02.2017, directing the Commissioner of Municipal Administration, Government of Tamil Nadu, to hold an enquiry and submit a report within 15 days.

4.The Commissioner pursuant to the said direction appears to have submitted a report. Since the factual details were not clear, the Division Bench directed the Government to be

impleaded as a party. Accordingly, the Principal Secretary to the Government, Municipal Administration and Water Supply Department, Chennai was impleaded as fifth respondent. The fifth respondent filed a counter affidavit indicating the legal position with respect to the ratio.

5. The Deputy Secretary to Government, Municipal Administration and Water Supply Department, in Paragraph No.3 of the counter affidavit indicated the position thus:

" 3.It is further submitted that the common seniority drawn among the Assistant Engineers and Junior Engineers by following the ratio of 3 : 1 alone is adopted for promotion as Assistant Executive Engineer and not by considering the designation / category of Assistant Engineer or Junior Engineer, but according to the seniority in the common seniority list (Interse-Seniority) and eligibility as prescribed in the service rules. In the instant case of Salem Corporation, common seniority list was prepared on 07.03.2001 vide proceedings C3/30547/2000 and the same was followed till date for the promotion of Assistant Executive Engineer Post."

6. The learned counsel for the appellant submitted that in view of the clarification given by the Government, the appellant is not pressing the appeal and he will work out the remedy in the manner known to law.

7. The intra Court appeal is disposed of taking into account the submission made on behalf of the appellant. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ms/pri

To

1.The Commissioner,
Salem City Municipal Corporation,
Salem - 636 007.

2.The Principal Secretary,
The Government of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Fort St.George, Chennai - 600 009.

+1 cc to Mr.Muthumani Doraisami, Advocate, Sr.No. 25791
+1 cc to Mr.T.Ranganathan, Advocate, Sr.No. 25867

W.A.No.97 of 2017
and
C.M.P.No.1698 of 2017

SSP(CO)
CSL/26.04.2019



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