

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2019

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.30892 of 2018

P.Balamurugan

...Petitioner

Vs

1. The Secretary to Government,
Municipal Administration and Water Supply Dept.,
Secretariat, Chennai - 600 009.
2. The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
3. The Commissioner,
Tiruchirappalli City Municipal Corporation,
Tiruchirappalli.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ or order or orders or direction particularly in the nature of Writ of Mandamus, directing the 1st respondent to consider the representation of the petitioner dated 26.03.2018 for appointment as Assistant in the Tiruchirappalli City Municipal Corporation within a reasonable period.

For Petitioner
For Respondents

:Mr.T.Ranganathan
: Mr.R.S.Selvam,
Govt. Advocate for R1&R2

सत्यमेव जयते
O R D E R

The relief sought for in the present writ petition is to direct the first respondent to consider the representation of the petitioner dated 26.03.2018 for appointment as Assistant in the Tiruchirappalli City Municipal Corporation.

2. The learned counsel for the writ petitioner states that, the father of the writ petitioner Late.Shri.V.Paramasivam, was employed as Assistant Revenue Officer in Tiruchirappalli City Municipal Corporation and he died during the year 1988. The writ petitioner was appointed on compassionate ground as Record Assistant on 28.12.1998. The writ petitioner states that he completed his B.Com. degree in the year 1994 and he was not

considered for appointment to the post of Junior Assistant or Assistant by direct recruitment.

3. It is stated that, deliberately the writ petitioner was appointed as Record Assistant, which is unfair. However, the fact remains that, the writ petitioner is serving in the post of Record Assistant with effect from his initial date of appointment on 28.12.1998. For about 20 years, the writ petitioner is working as Record Assistant. The father of the writ petitioner expired during the year 1988. Thus, the writ petitioner has to secure promotion or appointment only with reference to the Rules in force and certainly not on compassionate grounds.

4. For promotion to the post of Junior Assistant or Assistant, the name of the writ petitioner is to be considered along with all other eligible candidates by way of promotion, whenever the turn as per his seniority has come for consideration, the case of the writ petitioner is to be considered for promotion with reference to the Rules in force. Contrarily, the writ petitioner cannot be claim appointment to the post of Junior Assistant or Assistant by way of direct recruitment on compassionate ground once again.

5. The scheme of compassionate appointment has a definite purpose and object. The very object of the scheme is to mitigate the circumstances arising on account of the sudden death of the Government employee. Thus, once the appointment on compassionate ground is granted to one of the legal heir of the deceased employee, the said legal heir cannot claim any further appointment or promotion, on the ground that he/she possesses higher qualification. Any subsequent consideration for promotion or for direct recruitment must be strictly with reference to the Rules in force and there is no provision to give further postings on compassionate grounds, when the writ petitioner himself admitted the first appointment to the post of Record Assistant. In other words, the writ petitioner accepted the offer of appointment to the post of Record Assistant and joined in the post on 28.12.1998 and serving in the respondent Corporation for about 20 years.

6. Under these circumstances, all further promotions are to be granted in accordance with the promotion Rules in force and more specifically, at the time of undertaking the process of promotion by the respondents. It is needless to state that, while preparing the panel for promotion to the post of Junior Assistant, the name of the eligible persons are to be considered strictly in accordance with Rules and as per the seniority.

7. This being the principles to be followed, the relief as such sought for to consider the representation is certainly not

required and the case of the writ petitioner is to be considered in accordance with the Rules in force. With these clarifications, the writ petition stands disposed of. No Costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Pkn
To

1. The Secretary to Government,
Municipal Administration and Water Supply Dept.,
Secretariat, Chennai - 600 009.
2. The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
3. The Commissioner,
Tiruchirappalli City Municipal Corporation,
Tiruchirappalli.

+1 CC to Mr.T.Ranganathan, Advocate sr 28850.

+1 CC to Govt. Pleader sr 29148.

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LN(CO)
SP(13/05/2019)

सत्यमेव जयते

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