



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.07.2019
CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

W.P.(MD) Nos.9719 & 9720 of 2014
and
M.P.(MD) Nos.2 & 2 of 2014

1.L.Sangapillai
2.V.Ponnambalam ... Petitioners in W.P.(MD) No.9719/2014

1.M.A.Shahul Hameed
2.R.Arumugam
3.S.Gopi ... Petitioners in W.P.(MD) No.9720/2014

vs.

1.The Government of Tamilnadu
rep.by its Principal Secretary
Municipal Administration and
Water Supply Department
Fort St.George, Chennai-600 009

2.The Director of Town Panchayats
Kuralagam, Chennai-600 108

3.The District Collector
Karur District, Karur ... Respondents in both W.Ps.

PRAYER (in both W.Ps.): Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus forbearing the respondents from filing up the post of Junior Assistant/Bill collector in Town Panchayat Services in Karur District without considering the promotion for the petitioners as per G.O.150, MAWS Department dated 19.08.1998 and as per the panel issued by the 3rd respondent in Na.Ka.No.175/2008/TP2 dated 20.03.2008 and further direct the respondents to promote the petitioners to the post of Junior Assistant/Bill Collector with effect from 1998 with all consequential and attendant benefits.

For Petitioners : Mr.M.Saravanakumar
(in both W.Ps.)

For Respondents : Mr.S.Dhayalan
(in both W.Ps.) Government Advocate



C O M M O N O R D E R

The relief sought for in the present writ petitions is for a direction to the respondents to forbear from filling up the post of Junior Assistant / Bill Collector in Town Panchayat Services in Karur District, without considering the promotion for the writ petitioners, as per G.O.(Ms.) No.150, Municipal Administration and Water Supply Department, dated 19.08.1998.

2. The learned counsel appearing for the writ petitioners states that the writ petitioners are working as Record Clerks, Water Supply Assistants and Pump Cleaners in the Town Panchayat Department at Karur District. The writ petitioners are fully qualified for promotion to the post of Junior Assistant / Bill Collector. Despite the fact that vacancies are available in the post of Junior Assistant / Bill Collector, the case of the writ petitioners was not considered. Thus, the writ petitioners are constrained to move the present writ petitions.

3. Promotion *per se* cannot be claimed as a matter of legal right. However, consideration for promotion is a fundamental right of an employee. Thus, direction for promotion cannot be granted under Article 226 of the Constitution of India. Only in the event of establishing that the promotion rules are violated and the juniors are promoted, then only the employee gets a right to agitate the matter before the Court of law. However, the authorities competent, while undertaking the preparation of panel, must consider the names of all the candidates, who all are eligible and waiting for promotion.

4. This Court is of the opinion that in respect of the Government Orders and Rules in force, an administrative decision is to be taken to fill-up the post of Junior Assistant / Bill Collector. If an administrative decision is taken to fill-up the post, then, the names of all the eligible candidates are to be considered for inclusion of their respective names in the panel fit for promotion to the post of Junior Assistant / Bill Collector. If the writ petitioners are qualified, their names are also to be considered along with all other candidates, who all are aspiring to secure promotion, in accordance with the rules in force.

5. The writ petitioners earlier filed a writ petition in W.P.(MD) No.8883 of 2009 and this Court, by order dated 20.10.2010, directed the authorities competent to consider the case of the writ petitioners, with reference to the Government Orders in force. The learned counsel for the writ petitioners ~~in spite of the orders passed by this Court in the year 2010, no decision has been taken. Thus, the writ petitioners are constrained to move the present writ petitions.~~



6. Such repeated filing of writ petitions cannot be encouraged by this Court. The promotion as cannot be claimed as a matter of right, the writ petitioners have to wait for their opportunity in respect of the administrative decision to be taken by competent authorities to fill-up the post of Junior Assistant / Bill Collector. However, by getting a general direction, the writ petitioners cannot secure promotion. It is made clear that the writ petitioners should not file writ petitions based on such flimsy grounds and in respect of the administrative decisions to be taken by the authorities concerned. Only in the event of violation of any promotion rules or non-consideration of the name of the writ petitioners by promoting their juniors, then alone, the writ petitioners can approach the Court of law for the purpose of redressing their grievances, as such unnecessary writ petitions for granting general directions need not be entertained and the same would not do any service to the cause of justice and the litigant will be back again before the Court for appropriate reliefs. For these reasons, such directions to consider cannot be granted by the Courts also.

7. Under these circumstances, it is made clear that the case of the writ petitioners are to be considered along with the other eligible candidates, who all are aspiring for promotion, at the time of taking an administrative decision to fill-up the post of Junior Assistant / Bill Collector in accordance with the Government Orders and the Rules in force.

8. With these observations, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)

krk

To:

- 1.The Principal Secretary, Municipal Administration and Water Supply Department, Fort St.George, Chennai-600 009.
- 2.The Director of Town Panchayats, Kuralagam, Chennai-600 108.
- 3.The District Collector, Karur District, Karur.

+1cc to the Spl.Govt.Pleader Sr.No.75964

W.P.(MD) Nos.9719 & 9720 of 2014

and

M.P.(MD) Nos.2 & 2 of 2014

17.07.2019