



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2019

CORAM

THE HONOURABLE MR. JUSTICE **S.S.SUNDAR**

W.P. (MD) Nos. 7048 to 7050 of 2015

and

M.P. (MD) Nos. 1, 1, 1, 2, 2, 2, 3, 3 and 3 of 2015

S.Sekar : Petitioner in W.P. (MD) No. 7048 of 2015  
M.P. Manoharan : Petitioner in W.P. (MD) No. 7049 of 2015  
M.V. Murugesapandian : Petitioner in W.P. (MD) No. 7050 of 2015

vs.

1. The Principal Secretary to Government,  
Municipal Administration and Water  
Supply (MC IV) Department,  
Secretariat, Chennai.

2. The Commissioner,  
Madurai Municipal Corporation,  
Madurai.

: Respondents in all cases

**Common Prayer:** Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent in his proceedings in Letter No. 6839/MC IV/2015-2, dated 16.04.2015 in respect of the direction to cancel panel of Assistant Engineers fit for promotion as Assistant Executive Engineers for the year 2014-15 approved in Proc. No. Ma.Ni2/32446/2014, dated 13.11.2014 of the second respondent to prepare a revised panel as mentioned in para. No. 2 (iii) therein and the consequential impugned order, passed by the second respondent in his proceedings Ma.Ni2/32446/2014, dated 23.04.2015 and quash the same in respect of the petitioner alone as illegal, arbitrary and in violation of principles of natural justice.

(In all cases)

For Petitioner : Mr. B. Saravanan

For R1 : Mr. R. Murugan

Additional Government Pleader

For R2 : Mr. R. Murali

\*\*\*

**COMMON ORDER**

These writ petitions are filed to issue a Writ of Certiorari, to quash the impugned proceedings of the first respondent, dated 16.04.2015 and the consequential order passed by the second respondent, dated 23.04.2015 insofar as the petitioners are concerned.



2. Since all these writ petitions are filed challenging the impugned order of first respondent, dated 16.04.2010 and the consequential order passed by the second respondent, dated 23.04.2015, these writ petitions are taken up together and disposed of by this common order.

WEB COPY

3. The petitioners in W.P. (MD) Nos. 7048 and 7050 of 2015 are the Junior Engineers and the petitioner in W.P. (MD) No. 7049 of 2015 is the Assistant Engineer and are working in the second respondent Corporation. It is not in dispute that the petitioners are in the feeder category and were also included in the panel prepared for promotion to the post of Assistant Executive Engineer in the year 2014-15. The said panel was prepared on 13.11.2014 and in the said panel, the petitioner in W.P. (MD) No. 7048 of 2015 was placed as first and the petitioners in W.P. (MD) Nos. 7049 and 7050 of 2015 were placed as fifth and ninth position. It is also admitted that all the petitioners were given promotion to the post of Assistant Executive Engineer.

4. The first respondent, by impugned order, dated 16.04.2015, directed the second respondent to cancel the entire panel prepared for promotion to the post of Assistant Executive Engineer for the year 2014-15. It is stated in the impugned order passed by the first respondent that some ineligible persons, against whom charges are pending in connection with JNNURM works, have been included in the panel and that therefore, the second respondent is requested to cancel the panel of Assistant Engineers and Junior Engineers, who are all fit for promotion to the post of Assistant Executive Engineer in the year 2014-15 and to prepare a revised panel by following due process, as per the existing Rules.

5. In the impugned order passed by the first respondent, it is also stated that the disciplinary proceedings initiated against one M. Kamaraj, M. Bala and Tmt. Malliga and others, who are the persons, against whom, charges had been framed in connection with the irregularities committed by them in JNNURM works should be concluded within two months. Based on the order passed by the first respondent, the second respondent passed the consequential order on 23.04.2015, cancelling the panel of Assistant Engineer and Junior Engineer in the year 2014-15 and the promotion given to the writ petitioners. Aggrieved by the order passed by the respondents, the above writ petitions have been filed.

6. The learned Counsel for the petitioner submitted that the first respondent passed the impugned order only on account of few Assistant Engineers, against whom, charges were already framed for serious irregularities. The learned Counsel further stated that it is not necessary for the first respondent to cancel the entire panel and it will be more appropriate to delete the names of those



individuals against whom charges were framed and pending. The learned Counsel further submitted that the petitioners in all these writ petitions were given promotion to the post of Assistant Executive Engineer and that therefore, their promotion has now been withdrawn / cancelled in view of the impugned order passed by the first respondent. The learned Counsel for the petitioner further pointed out that cancellation of panel as well as the promotion, as such were done without issuing any notice to the petitioners, whose rights are very much affected by the impugned orders.

7. On the other hand, the learned Counsel for the second respondent would only say that the Corporation is bound to follow the direction of the first respondent and that therefore, they have no other option, except to pass the consequential order, which is also challenged in the writ petitions. The learned Counsel for the second respondent fairly admitted that no charge or disciplinary proceedings is issued or pending against any of the writ petitioners and that it is not necessary for the respondents to cancel the entire panel and promotion, that was given to the writ petitioners.

8. By referring to the pendency of disciplinary proceedings against some of the Assistant Engineers, the panel prepared in 2014 showing the list of eligible Assistant Engineers and Junior Engineers fit for promotion to the post of Assistant Executive Engineer in the year 2014-15, cannot be cancelled. The petitioner in W.P. (MD) No. 7048 of 2015 was placed in Sl. No. 1 and the other writ petitioners are found place in Sl. No. 5 and 9 in the promotional panel. Pursuant to the panel for the year 2014-15, the petitioners were also given promotion to the post of Assistant Executive Engineers and their promotion is not challenged by anyone.

9. There is no irregularity in the promotion given to the petitioners, based on the seniority list. Though direction was issued to cancel the panel of Assistant Engineers, the second respondent has cancelled the entire panel, including the Junior Engineers. Merely because, the panel was prepared by including some of the Assistant Engineers, against whom, charges are framed, it is not appropriate for the first respondent to cancel the entire panel. When a seniority list was to be modified or cancelled, the respondents ought to have given sufficient opportunity to the individuals to show cause, why the panel should not be modified or cancelled.

10. In this case, admittedly, all the three petitioners were promoted, after the preparation of panel and there is no irregularity pointed out in the impugned order passed by the first



respondent that their promotion is vitiated by any irregularity. However, unmindful of the legal implications, the first respondent cancelled the panel and consequently cancelled the promotions given to the petitioners without following any procedure or complying with the principles of natural justice.

WEB COPY

11. For the above reasons, this Court is unable to sustain the order passed by the first respondent and the consequential order passed by the second respondent. Accordingly, these writ petitions are allowed and the impugned order passed by the first respondent, dated 16.04.2015 and the consequential order passed by the second respondent, dated 23.04.2015 are set aside insofar as it relates to the petitioners. The impugned orders shall be treated as void insofar it relates to the petitioners' promotion and unenforceable to affect their promotion. With regard to the other persons, who have not challenged the impugned orders, it is open to the respondents to prepare a new panel in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()co

// True Copy //

Sub Assistant Registrar (CS)

cmr

To

1. The Principal Secretary to Government,  
Municipal Administration and Water  
Supply (MC IV) Department,  
Secretariat, Chennai.

2. The Commissioner,  
Madurai Municipal Corporation,  
Madurai.

+1 CC to M/s.R.MURALI, Advocate ( SR-93363[F] dated 21/10/2019 )

+1 CC to M/s.SPL GP ( SR-93506 to 93508[F] dated 22/10/2019 )

+3 CC to M/s.B.SARAVANAN, Advocate ( SR-93766[F] dated  
23/10/2019 )

W.P. (MD) Nos. 7048 to 7050 of 2015  
21.10.2019

\_KM/ (24.10.2019) 4P 8C