



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.13102 of 2017

N.Arumugam

... Petitioner

-Vs-

1.The Director of Municipal Administration,
Ezhilagam, Chepauk,
Chennai-600 009.

2.The Commissioner,
Madurai Municipal Corporation,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to pay the salary to the post of Bill Collector to the petitioner from the date of the petitioner's promotion ie., 07.11.2006 with increments by considering the petitioner's representation, dated 26.05.2017 within the time frame that may be stipulated by this Court.

For Petitioner	: Mr.A.Robinson
For R1	: Mr.S.Dhayalan, Government Advocate.
For R2	: Mr.T.S.Mohammed Mohideen

ORDER

This Writ Petition is filed for a direction to direct the respondents to pay the salary to the post of Bill Collector to the petitioner from the date of the petitioner's promotion i.e., 07.11.2006 with increments, by considering the petitioner's representation, dated 26.05.2017.

2.The petitioner was appointed on compassionate ground in the second respondent Corporation on 13.07.1990 and completed his probation on 12.07.1991. His service was regularized from the date of his appointment. He completed S.S.L.C., in the month of April, 1994. The petitioner was promoted as Sanitary Supervisor on 31.10.2006. Thereafter, he was promoted to the post of Bill Collector, by the proceedings of the second respondent dated



07.11.2006, with a condition that the salary to the post of Bill Collector will be paid only after getting relaxation from the first respondent.

3.The grievance of the petitioner is that having promoted the petitioner as Bill Collector on 07.11.2006 and extracting work from him as Bill Collector, the second respondent is paying salary to the post of Office Assistant only. The petitioner has given various representations and lastly on 26.05.2017 to pay salary to the post of Bill Collector from the date of his promotion i.e., on 07.11.2006. However, the petitioner was not paid with the said salary and no order was passed on the representations of the petitioner. Hence, the petitioner has come out with the present Writ Petition.

4.The second respondent filed counter affidavit and the learned counsel for the second respondent contended that the petitioner was appointed as Office Assistant and he is not entitled to be promoted as Sanitary Supervisor. The petitioner was promoted as Sanitary Supervisor on condition to get retrospective approval from the Government. Thereafter, the petitioner was promoted as Bill Collector on 07.11.2006, subject to the relaxation to be ordered by the Government in future. The post of Bill Collector can be filled up by transfer from the post of Junior Assistant or Typist, who possesses the qualification prescribed for the post of Junior Assistant-cum-Typist. The petitioner is not possessing the prescribed qualification for Junior Assistant or Typist and hence, he is not entitled to be promoted as Bill Collector. The Government, by the proceedings dated 09.12.2013, rejected the proposal sent by the second respondent and the petitioner has not challenged the said rejection order and hence, he is not entitled for the relief sought for in the present Writ Petition and prayed for dismissal of the Writ Petition.

5.Heard Mr.A.Robinson, learned counsel appearing on behalf of the petitioner, Mr.S.Dhayalan, learned Government Advocate appearing on behalf of the first respondent and Mr.T.S.Mohammed Mohideen, learned counsel appearing on behalf of the second respondent.

6.From the materials on record, it is seen that the second respondent in the counter affidavit has not denied that the petitioner was promoted as Bill Collector on 07.11.2006. On the other hand, the second respondent has stated that the petitioner was promoted as Bill Collector on 07.11.2006, subject to the relaxation to be ordered by the Government in future and the second respondent has not denied that the petitioner is working in the capacity of Bill Collector even today. The only objection raised by the second respondent is that the petitioner was not qualified to be promoted either as Sanitary Supervisor or as Bill Collector and the rejection of the Government was not challenged by the petitioner. These



after promoting him as Bill Collector and extracting work from the petitioner from 07.11.2006. It is also an admitted fact that even after rejection of the proposal by the Government in the year 2013, the second respondent permitted the petitioner to work as Bill Collector and extracted work as Bill Collector.

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7. For the above reasons, this Writ Petition stands allowed, directing the respondents to pay salary to the petitioner, as Bill Collector from the date of his promotion i.e., on 07.11.2006, till he is employed as Bill Collector, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

Myr

To

The Director of Municipal Administration,
Ezhilagam, Chepauk,
Chennai-600 009.

+1 CC to Mr.T.S.MOHAMED MOHIDHEEN, Advocate SR-87148.
+1 CC to Mr.A.ROBINSON, Advocate SR-87175.
+1 CC to SPL GP SR-87253.

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