

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.10397 OF 2012

AND M.P.NO.1 OF 2012

B.Sagadevan

... Petitioner

Vs.

1.Commissioner of Municipal Administration
Chennai.

2.Commissioner
Attur Municipality,
Attur, Salem District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the second respondent in Na.Ka.No.8255/2010/C1 dated 24.03.2011 and quash the same and direct the respondents to appoint the petitioner as Junior Assistant in the second respondent Municipality as per Government Order.

For Petitioner : Mr.P.Ganesan
for M/s.C.S. Associates

For Respondents: Mr.I.Sathish
Additional Government Pleader

O R D E R

The petitioner was appointed as Sweeper on compassionate basis. He passed S.S.L.C. and therefore eligible to be appointed as Junior Assistant. He made a representation dated 13.10.2010 to the second respondent to appoint him as Junior Assistant as it was done in the case of similarly placed persons and his representation was forwarded by the second respondent to the first respondent. His representation was rejected by the first respondent on 16.03.2011 and the same was communicated by the second respondent to the petitioner in Na.Ka.No.8255/2010/C1 dated 24.03.2011. Thereafter, the petitioner filed an application under Right to Information Act,

2005. He was informed that the persons appointed in the Health Department cannot be transferred to General Department and appointed as Junior Assistant and the Rules do not provide for such transfers. On receipt of that information, the petitioner has approached this Court for setting aside the impugned rejection order communicated by the second respondent.

2. The learned counsel for the petitioner would rely on the unreported judgment of this Court in S.VEERAMANI VS. THE SECRETARY TO GOVERNMENT OF TAMIL NADU, MUNICIPAL ADMINISTRATION AND WATER SUPPLY DEPARTMENT AND OTHERS [W.P.No.16758 of 2015 decided on 07.10.2016] wherein this Court has considered various judgments and observed that in view of G.O.Ms.No.206, Municipal Administration and Water Supply Department, dated 02.11.1995, there is no impediment for appointing the writ petitioner therein in the post of Junior Assistant.

3. Controverting the facts, the learned Additional Government Pleader appearing for the respondents would contend that there is no provision in the Rules for transfer from one Department to another Department and therefore, the petitioner cannot be appointed as Junior Assistant.

4. On consideration of the rival submissions, it is seen that the petitioner is fully qualified to the post of Junior Assistant in view of his pass in S.S.L.C. Examination. He wants to be appointed as Junior Assistant and not a transfer. The petitioner is willing to take fresh appointment also. Therefore, without going into the merits of the case, the writ petition is disposed of with a direction to the respondents to consider the representation of the petitioner dated 13.10.2010 and other subsequent representations, if any made, in the light of the order passed by this Court in W.P.No.16758 of 2015 dated 07.10.2016 and pass orders, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

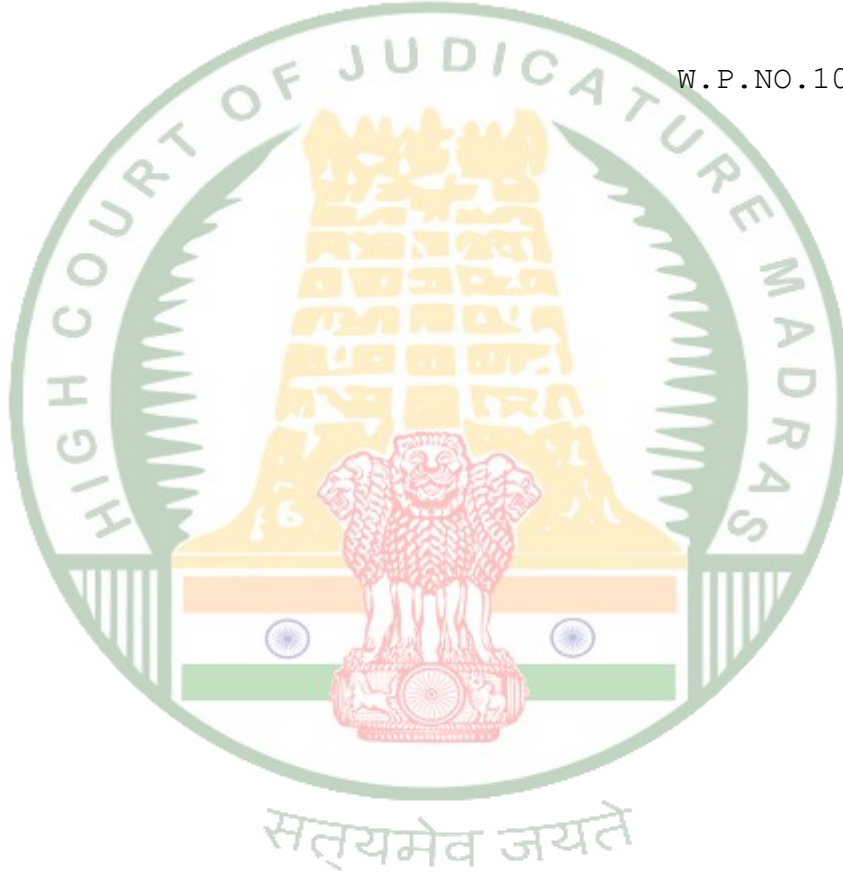
1.The Commissioner of Municipal Administration
Chennai.

2.The Commissioner
Attur Municipality,
Attur,
Salem District.

+1 cc to M/s.C.S.Associates,sr.1696

sks (co)
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