

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 26.08.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No. 25578 of 2013
and
M.P.Nos. 1 to 3 of 2013

K.Ganesan

.. Petitioner

- Vs -

1. The District Collector,
Erode District,
Erode.
2. The Executive Officer,
Vadukapatti Town Panchayat,
Erode.
3. Muthuraman

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified Mandamus, to call for the records in proceedings NO.Na.Ka.166/2012 dated 6.3.2013, on the file of the 2nd respondent and quash the same as illegal, incompetent and unconstitutional and consequently direct the 2nd respondent to appoint the petitioner to the regular post of Sweeper and regularized his service.

Petitioner : M/S.P.I.Thirumoorthy

For Respondents: Mr.S.Thangavel, Spl.G.P for R1
: M/S.S.Kanmani Annamalai for R2
: NO appearance for R3

WEB COPY
ORDER

The Writ petition has been filed by the petitioner, to call for the records in proceedings NO.Na.Ka.166/2012 dated 6.3.2013, on the file of the 2nd respondent and quash the same as illegal, incompetent and unconstitutional and consequently direct the 2nd respondent to appoint the petitioner to the regular post of Sweeper and regularized his service.

2.The case of the petitioner is that he was appointed in the 2nd respondent town panchayat as sweeper in the year 2012 as per the resolution of the Town Panchayat in respect of the vacancy caused to the Vadukapatti Town panchayat on temporary basis. According the petitioner, he is possessed of SSLC qualification and enrolled his qualification in Employment Exchange, Erode on 30.06.200, bearing registration number is 5071/2000 and renewing periodically as per rule. Meanwhile there was a vacancy in the said panchayat and in order to fill the vacancy, the district employment exchange had sponsored the name of five persons as qualified persons to the post of Sweeper on 09.01.2013, including the petitioner's name as well as 3rd respondent. On the basis of the proceedings of the 2nd respondent dated 06.02.2013, the petitioner and the 3rd respondent attended the interview, though the other persons did not attend the interview. However, to his shock and surprise, the 2nd respondent had appointed the 3rd respondent in the said post, who has not event attended the interview on that date. Challenging the rejection of petitioner's candidature, the present writ petition has been filed by him with the above said prayer.

3. Learned counsel appearing for the petitioner submitted that the qualification of the petitioner is higher than the 3rd respondent. The petitioner has studied upto 10th standard, though having not passed 10th standard, however, the 3rd respondent's has passed only 5th standard. The petitioner being in possession of higher qualification and having requisite experience, he ought to have been appointed to the said post. Accordingly he prays for allowing the petition.

4. Learned counsel appearing for the 2nd respondent submitted that the petitioner as well as 3rd respondent are temporary employees in the Town Panchayat. After obtaining the seniority list from the employment exchange and considering the seniority and age of the petitioner and the 3rd respondent as also their experience, the 3rd respondent was appointed. It is the submission of the learned counsel that at that time of appointment, the 3rd respondent was aged about 41 years old, while the petitioner was only aged about 37 years, and even after rejection of the petitioner's candidature, he is continuously working as daily rated employee in the said Panchayat. Hence the petition filed by the petitioner is not maintainable, prays for dismissal of the petition.

5.Heard both sides and perused the materials available on record.

6. The facts in the present case are not in dispute. From a perusal of the materials available on record, it is clear that

after following the due procedure prescribed in the recruitment rules, the 2nd respondent selected the 3rd respondent to the said post. Further, it transpires from the records that considering the candidature of the petitioner and the 3rd respondent, age of the 3rd respondent was taken into consideration for the purpose of appointing him. Therefore, it is clear that there is no violation of rules. In such view of the matter, this Court is of the considered view that no interference is called for with the present impugned proceedings.

7. For the reasons aforesaid, this writ petition stands dismissed. However, this order will not stand in the way of the petitioner to participate in future recruitment process, if any vacancy arises and in such an event, the petitioner's candidature may be considered in accordance with law and orders be passed. Consequently, connected miscellaneous petitions are closed. However there shall be no order as to costs.

Sd/-

Assistant Registrar (CJ Conf.)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Erode District, Erode.
2. The Executive Officer,
Vadukapatti Town Panchayat,
Erode.

+1cc to M/s.P.I.Thirumoorthy, Advocate, Sr.No.28114

+1cc to the Government Pleader, Sr.No.28129

W.P. NO.25578 of 2013

ln (co)
rr ii (20/11/2020)

WEB COPY