

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.12.2020
CORAM
THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.28016 of 2013
and
MP Nos.1 & 2 of 2013

P.Narayanan

.... Petitioner

Vs.

1.The Chief Secretary to Government,
Government of Tamil Nadu,
Fort St. George,
Secretariat, Chennai - 600 009.

2.The Secretary to Government,
Municipal Administration and Water (M.E.1) Supply Department,
Fort St. George,
Secretariat, Chennai - 600 009.

3.The Secretary to Government,
Personal Administration Reforms Department,
Fort St. George,
Secretariat, Chennai - 600 009.

4.M.Senthil Murugan,
5.G.Ashok Kumar,
6.B.V.Surendra Sha,
7.N.Sankaran

.... Respondents

Writ Petition filed Under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus calling for the concerned records relating to G.O.(3D) No.30 Municipal Administration and Water Supply (M.E.I) Department dated 28.09.2013 passed by the second respondent and quash the same in so far as the respondent 6th and 7th concerned and consequently to direct the second respondent to fix the seniority in the grade of Municipal Commissioner Grade-II as per the G.O.No.26 dated 29.11.2010 as per qualifying service as on 15th March of every Year by placing the petitioner above the respondents 4 to 7.

For petitioner :Mr.M.Gnanasekar

For respondents :Mr.S.Thangavel,
Special Government Pleader
for R1 to R3
M/s.C.P.Indumathi for R5
Mr.K.Ramasamy for R6 & R7

O R D E R

This writ petition has been filed to quash the order in G.O. (3D) No.30 Municipal Administration and Water Supply (M.E.I) Department dated 28.09.2013 passed by the second respondent and for consequential direction to fix the seniority in the grade of Municipal Commissioner Grade-II as per the G.O.No.26 dated 29.11.2010 as per qualifying service as on 15th March of every year by placing the petitioner above the respondents 4 to 7.

2. It is the case of the petitioner that he was appointed as Typist on 27.10.1993 and subsequently promoted as Assistant Section Officer on 23.09.2005 in the second respondent Department. That being so, he applied for the post of Municipal Commissioner Grade - II on the basis of recruitment by transfer. It is averred that though he possessed the requisite qualification for the said post his name was not considered in the panel year 2010-2011 and was appointed as Municipal Commissioner Grade - II on 01.08.2011, since he has not completed minimum requisite years of service as on the crucial date viz., 15th March every year. Whereas the private respondents, who were also not having such requisite period of service were promoted earlier. Hence, it is his case that without preparing seniority list in the post of Municipal Commissioner Grade - II, the second respondent ought not to make temporary appointments to the post of Municipal Commissioner Grade I. Ventilating his grievances, he submitted representation dated 30.09.2013 to the official respondents, which has not been considered, till date. Hence, he filed this writ petition to quash the impugned order dated 28.09.2013 and for a consequential direction.

3. Learned counsel for the petitioner submits that though he has not challenged the initial order of promotion as Municipal Commissioner Grade II, he now limits his prayer to fix the seniority in the post of Municipal Commissioner Grade II as per G.O. No.26, dated 29.11.2010 taking into account the crucial date viz., 15th March of every year. Hence, it would suffice, if this Court issues a direction to the official respondents in the above regard to pass orders within a reasonable time.

4. Per contra, Mr.S.Thangavel, Special Government Pleader appearing for the respondents 1 to 3 submits that the promotion effected to the petitioner was on the basis of Rule 10(a) (i) and as such, he does not have the right to challenge appointment made on temporary basis. However, he has no objection for issuing a direction to the respondents to consider the claim of the petitioner in accordance with law.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel on either side and perused the materials placed on record. It is noticed that though the writ petition is of the year 2013, till date no counter has been filed.

6. Considering the submissions made by learned counsel on either side and the nature of limited relief sought for in this writ petition, this Court without going into the merits of the case, directs the petitioner to submit a copy of the representation dated 30.09.2013 along with this order copy to the respondents, within a period of two weeks from the date of receipt of a copy of this order and on receipt of the said representation, the respondents shall consider the same and pass orders on merits and in accordance with law, within a period of twelve weeks thereafter.

7. With the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

vsi2

To

1.The Chief Secretary to Government,
Government of Tamil Nadu,
Fort St. George,
Secretariat, Chennai - 600 009.

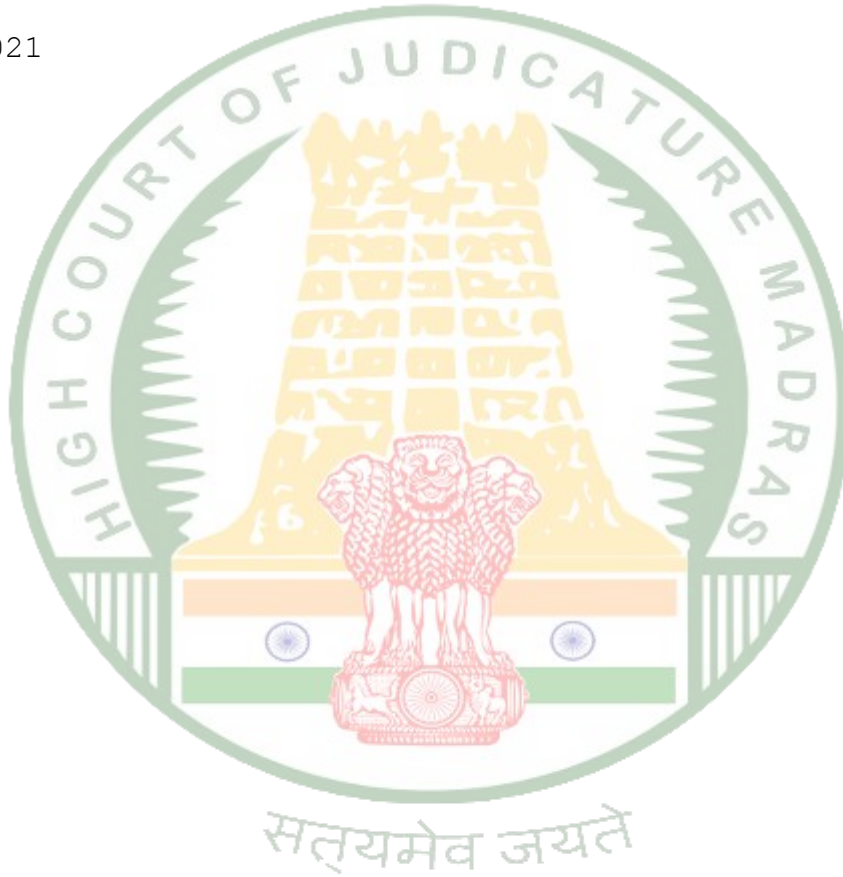
2.The Secretary to Government,
Municipal Administration and Water (M.E.1) Supply Department,
Fort St. George,
Secretariat, Chennai - 600 009.

3.The Secretary to Government,
Personal Administration Reforms Department,
Fort St. George,
Secretariat, Chennai - 600 009.

+1 cc to M/s.M.Gnanasekar Advocate sr42000
+1 cc to Government Pleader sr41967

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