



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2020

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.12542 of 2020

and

W.M.P (MD) .No.10713 of 2020

T.Mari

...Petitioner

-Vs-

- 1.The Secretary to Government,
Municipal Administrative and Water Supply Department,
Secretariat, Chennai-9.
- 2.The Director of Town Panchayat,
Kurallagam, Chennai.
- 3.The Assistant Director,
Town Panchayat,
Sivagangai Region,
Sivagangai.
- 4.The District Collector,
Sivagangai District,
Sivagangai.
- 5.The Executive Officer,
Selection Grade Town Panchayat,
Thirupathur, Sivagangai District.

6.Mayaalagu

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the fourth respondent to appoint the petitioner in the post of Sanitary Worker under OC (Non Priority Category) based on the interview conducted on 16.03.2020.

For Petitioner	: Mr.R.Murali
For Respondents	: Mr.A.Thiyagarajan
	Government Advocate
	for R1 to R5



ORDER

The prayer sought for herein is for a Writ of Mandamus, to direct the fourth respondent to appoint the petitioner in the post of Sanitary Worker under OC (Non Priority Category) based on the interview conducted on 16.03.2020.

2.Heard Mr.R.Murali, learned counsel appearing for the petitioner and Mr.A.Thiyagarajan, learned Government Advocate appearing for the respondents 1 to 5. Since no adverse order is going to be passed against the sixth respondent, notice to him is dispensed with.

3.By consent of both sides, this writ petition is taken up for final disposal at the admission stage itself.

4.The case of the petitioner is that, the petitioner had been working as Sanitary Worker at the fifth respondent Town Panchayat, ofcourse through the Self Help Group. While so, during the year 2016, a post of Sanitary worker was to be filled up, for which, the petitioner also made an application, since the petitioner was an eligible person, as he had been working as a Sanitary worker in that Town Panchayat for more than several years, he could have been considered for such appointment. However, unfortunately, they selected one Padmavathy and appointed, who is none other than the wife of a councillor or ward member of the Town Panchayat. Like that this time also, a notification was issued on 05.11.2019 inviting applications from various eligible persons to fill up the post of Sanitary workers in various Town Panchayats in Sivagangai District, wherein in respect of the fifth respondent Town Panchayat, there are four vacancies, out of which, one vacancy on priority basis earmarked for B.C, another one is earmarked for B.C (Non Priority) and yet another vacancy is earmarked for S.C Women. Though the petitioner belonged to Scheduled Tribe community, she can only be considered in the OC non priority, for which, one post is available.

5.In this context, interview was called for and call letter was received by the petitioner to attend the interview, accordingly, on 16.03.2020, the petitioner attended the interview. Thereafter, no selection or posting order have been given. In the meanwhile, the petitioner came to understand that, the respondents are trying to appoint the sixth respondent for reason known to them, as they have done in the last time by appointing the wife of the Ward Member. Therefore, in order to consider the candidature of the petitioner, the petitioner has given a representation on 07.09.2020 to the fifth respondent and in order to consider the same, seeking a Mandamus, as prayed for in this writ petition, the petitioner has approached this



Court.

6.The petitioner, admittedly, had been working ofcourse through Self Help Group at the fifth respondent Town Panchayat as Sanitary Worker and during the year 2016, though the petitioner was only an eligible candidate to consider for appointment, one of the Ward members' wife was appointed for obvious reason and this time also, though the petitioner has made a representation and he is most eligible candidate, as admittedly he has been working for 11 years and more, the respondents, especially, the respondents 3, 4 and 5 are trying to appoint any third party, which the petitioner reliable learn that, the sixth respondent may be appointed for obvious reason. Therefore, the request of the petitioner is that, if the respondents are directed to consider the representation of the petitioner, dated 07.09.2020 and having considered the past experience gained by the petitioner, they can take a decision to make an appointment for the post of Sanitary Worker earmarked for OC (Non Priority Category) at the fifth respondent Town Panchayat.

7.The learned Government Advocate appearing for the official respondents would submit that, since it is the matter of public employment, no priority can be given except under the category, where or for which, the post is earmarked.

8.In this context, though there are four vacant posts are available in the fifth respondent Town Panchayat, in respect of three posts, the petitioner cannot compete, but in the only one post i.e., OC (Non Priority), the petitioner also can compete, for which, interview already was conducted and therefore, based on the performance of the candidates including the petitioner in the interview, definitely selection in fair manner would be conducted and accordingly, intimation would be given to selected candidates.

9.I have considered the said submissions made by the learned counsel appearing for both parties and have perused the materials placed before this Court.

10.Though the petitioner cannot seek any priority, merely because he had been working through Self Help Group at the fifth respondent Town Panchayat for several years, that can also be taken as one of the criteria for finalizing the selection by the official respondents.

11.Eleven years experience gained by the petitioner can be an added advantage to the fifth respondent Town Panchayat for variety of reasons. Therefore, certainly, if a raw hand come for selection comparing with the petitioner, certainly, the petitioner will have



advantage, which may be considered by the respondents, especially, the respondents 3, 4 and 5 before finalizing the selection process in respect of one vacancy, namely OC (Non priority category) as other vacancies are earmarked separately for communal category, for which, the petitioner does not belong and he cannot compete.

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12. In that view of the matter, this Court is inclined to dispose of this writ petition with the following direction:

'that the respondents, especially, the respondents 3, 4 and 5 are hereby directed to consider the representation made by the petitioner, dated 07.09.2020 and accordingly, decide the request of the petitioner as to whether he can be suitably fit in, in the one post of Sanitary Worker at the fifth respondent Town Panchayat under OC (Non Priority Category) by taking into account that 11 years past service or experience gained by the petitioner in the very same Town Panchayat and accordingly, pass necessary orders on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order. '

13. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

To

1. The Secretary to Government,
Municipal Administrative and Water Supply Department,
Secretariat, Chennai-9.

2. The Director of Town Panchayat,
Kurallagam, Chennai.

3. The Assistant Director,
Town Panchayat,
Sivagangai Region,
Sivagangai.

<https://hcservices.ecourts.gov.in/hcservices/>



4.The District Collector,
Sivagangai District,
Sivagangai.

5.The Executive Officer,
Selection Grade Town Panchayat,
Thirupathur, Sivagangai District.

+1 CC to M/s.R. MURALI, Advocate (SR-18132[F] dated 25/09/2020)

W.P. (MD) No.12542 of 2020
24.09.2020

CK(CO)
TR(19.11.2020) 5P 7C