



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.[MD]No.17757 of 2020
and
W.M.P(MD) No.14829 of 2020

T.Thavasi Muthu Raja
Sanitary Worker,
Chinnamanur Municipality,
Chinnamanur-625 515,
Theni District.

... Petitioner

Vs.

1.The State of Tamilnadu,
Rep by its Secretary,
Department of Municipal Administration
and Water Supply,
Fort St.George, Chennai-600 009.

2.The Commissioner of Municipal Administration
Raja Annamalai Puram,
Chennai-600 028.

3.The Commissioner,
Municipal Office,
Chinnamanur Municipality,
Chinnamanur-625 515,
Theni District.

... Respondents

PRAYER : This Writ Petition is filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, to direct the third respondent Commissioner herein to promote the petitioner as Field Assistant in Chinnamanur Municipality, Theni District.

For Petitioner : Mr.A.Amala

For R-1 and R-2: Mr.B.Bhagavathy,
Government Advocate

For R-3 : Mr.Mr.M.Karupasamy
Government Advocate



O R D E R

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

2.This Writ Petition has been filed to direct the third respondent herein to promote the petitioner as Field Assistant in Chinnamanur Municipality, Theni District.

3.The learned counsel for the petitioner would submit that the petitioner was recruited and appointed as Sanitary worker in the Chinnamanur Municipality w.e.f 21.12.2015 and his service was regularized on 21.12.2017. As the panel for the promotion of Sanitary Inspector was prepared by the Commissioner of Municipal Administration, the name of one K.Sivakumar, Field Assistant was in the panel of promotion for the post of Sanitary Inspector. The petitioner is entitled for the promotion to the post of Field Assistant in the third respondent Municipality. In this regard, the petitioner has made a representation to the third respondent on 12.10.2020 to consider his candidature for the forthcoming promotion of Field Assistant. Subsequently the same was forwarded by the third respondent to the second respondent vide proceedings dated 03.11.2020.

4.The learned counsel for the petitioner would further submit that only the third respondent is the competent authority to give promotion. But instead of considering the petitioner's representation and to provide promotion, the third respondent has wrongly forwarded the same to the second respondent. In regard, the learned counsel has also referred the proceedings of the second respondent dated 10.04.2007, wherein it has been clearly mentioned that the third respondent is a competent authority to give the promotion.

5.The learned Government Advocate appearing for the respondents 1 and 2 would submit that in the said vacancy, the third respondent has appointed Mr.S.Muthaiya, Sanitary Supervisor as Field Assistant In-charge vide proceedings dated 13.11.2020.

6.In reply, the learned counsel for the petitioner would submit that Mr.S.Muthaiya was appointed only as In charge. There is no impediment for the respondents to provide promotion to the petitioner and to appoint the petitioner permanently in the post of Field Assistant.

7.Heard the learned counsel appearing on either side and perused the materials placed on records.

8.On perusal of the proceedings dated 10.04.2007, it appears that only the third respondent is the competent person to give



promotion to the petitioner. However, the petitioner has given representation to the third respondent on 12.10.2020. The third respondent vide communication dated 03.11.2020, has forwarded the same to the second respondent, wherein he has stated that the petitioner is entitled for the promotion and to pass necessary orders. However, the respondents did not take any action. Hence, the petitioner has given another representation dated 19.11.2020, seeking promotion to the post of Field Assistant, wherein it has been mentioned as to how the petitioner is entitled to get promotion and also referred the proceedings of the second respondent dated 10.04.2007.

9. In view of the above, this Court is of the considered view that as per the proceedings of the second respondent dated 10.04.2007, the third respondent is the competent authority to pass orders on the representation of the petitioner and to provide promotion to the petitioner. Hence, this Court directs the third respondent to consider the petitioner's representations dated 12.10.2020 and 19.11.2020 and to pass appropriate orders on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Cr1.Side)

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/ /2020

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:-

1. The Secretary,
State of Tamilnadu,
Department of Municipal Administration
and Water Supply,
Fort St. George, Chennai-600 009.

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



2.The Commissioner of Municipal Administration
Raja Annamalai Puram,
Chennai-600 028.

3.The Commissioner,
Municipal Office,
Chinnamanur Municipality,
Chinnamanur-625 515,
Theni District.

+1 CC to SGP (SR-24650[F] dated 09/12/2020)

W.P.[MD]No.17757 of 2020

07.12.2020

MJ(CO)

NR (23/12/2020) 4P : 5C