



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.20753 of 2015

WEB COPY

S.John Thayalan Gopalraj

... Petitioner

Vs.

The Commissioner,
Madurai Corporation,
Madurai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to promote the petitioner as a Technical Assistant in the respondent Corporation with effect from November 2006 and re-fix in the Technical Assistant seniority list as above the juniors of the petitioners in service working in the respondent Corporation and to provide all other monetary benefits, which is eligible by the petitioner, within the time as fixed by this Court.

For Petitioner : Mr.S.Karthik

For Respondent : Mr.T.S.Mohamed Mohideen
Standing Counsel

O R D E R

The relief sought for in the present Writ Petition is to direct the respondent to promote the petitioner as Technical Assistant in the respondent Corporation with effect from November 2006 and re-fix the Technical Assistant seniority list as above the juniors of the writ petitioner working in the respondent Corporation.

2. The promotion *per se* cannot be claimed as a matter of right. However, consideration for promotion is a right of an employee. Thus, the Competent Authority, while undertaking the process of preparation of panel shall consider the names of all the eligible persons, who all are aspiring to secure promotion.

3. The learned Standing Counsel for the respondent submitted that the petitioner was placed under suspension till 2007 and thereafter, charge memorandum was issued. Even now, the Vigilance and Anticorruption proceedings are pending against the writ petitioner.

4. Pendency of the charge memo is a bar for promotion. All these aspects are to be considered by the Competent Authority, as the petitioner was facing certain disciplinary proceedings. In view of the fact that the pendency of the disciplinary proceedings is a



bar for promotion, the case of the petitioner is to be considered based on the facts and circumstances by the Competent Authority. Thus, the prayer as such sought for to direct the respondent to promote the petitioner cannot be granted. Promotion is to be granted subject to the verification of the Service Records as well as based on the Rules in force.

5. Under these circumstances, the respondents is bound to consider the case of all the eligible persons, who are all aspiring to secure promotion, including the petitioner, if he is otherwise qualified and eligible in accordance with the Rules in force.

6. With these observations, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

MPK

To
The Commissioner,
Madurai Corporation,
Madurai.

+1 CC to M/s.T.S.MOHAMED MOHIDEEN, Advocate (SR-25998[F] dated 17/12/2020)

W.P. (MD) No.20753 of 2015
16.12.2020

MJ (CO)

KK(29.12.2020) 2P 3C