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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. No.30354 of 2008
and
M.P. No.1 of 2008

P.Udhayakumar

...Petitioner

Vs.

1. The Government of Tamil Nadu,
Municipal Administration and Water
Supply Department, Secretariat,
Chennai - 600 005.

2. The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.

3. The Commissioner,
Salem City Corporation,
Salem.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus to call for the records of the second respondent relating to his ROC. No.24691/2007/F4 dated 16.07.2008, quash the same and issue consequential directions to promote the petitioner herein as Junior Engineer forthwith in the third Respondent/Corporation.

For Petitioner : Mr.Balakrishnan for
Mr.M.Ravi

For Respondents : Mr.S.John J.Raja Singh,
Government Advocate for R1 & R2
Mr.Nedunchezhiyan for
Mr.G.Sankaran for R3

O R D E R

The father of the petitioner had passed away on 06.06.1998 while in service in the Salem Municipal City Corporation and the petitioner, holding a Diploma in Civil Engineering at that time, applied for appointment on compassionate grounds for a post commensurate with his qualification.



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2. On 09.07.1998, the petitioner was appointed as Skilled Assistant Grade II, in the Salem City Corporation. He subsequently made a representation on 07.03.2000 seeking appointment as a Junior Engineer in the existing vacancies. The representation was reiterated on 20.07.2000 seeking alternative appointment as a Technical Assistant.

3. His alternative request was accepted vide G.O. Ms. No.42, Municipal Administration and Water Supply Department, dated 02.03.2001. The request for promotion as Junior Engineer was rejected on the ground that there was no provision in the Tamil Nadu Municipal Administration Service Rules, 1996 (in short 'Rules') for direct appointment to the post of Junior Engineer. He joined duty as a Technical Assistant on 10.01.2002, though according to him, he was fully qualified for promotion to the post of Junior Engineer as per the provisions of Rule 4 of the aforesaid Rules.

4. According to him, he has been languishing from that date onwards (10.01.2002) without any avenue for upward mobility by way of promotion. He would refer to G.O. 2D No.73 Municipal Administration and Water Supply (Ma.Na.5) Department, dated 14.05.2008 that sanctions the creation of several technical posts in the Salem Corporation. Inter alia, eight posts of Assistant Engineer have also been sanctioned, for which, Engineering Degree and Diploma would suffice as qualifications.

5. Guidelines dated 16.07.2008 issued by the Commissioner, Municipal Corporation stipulate that as per Rule 5 of the Rules, ratio fixed for appointment of Technical Assistant and Skilled Assistant Grade I by way of direct recruitment on the one hand and by way of promotion from the post of Skilled Assistant Grade I & II on the other, is 1:2 respectively. In respect of appointment to the post of Skilled Assistant Grade II, the ratio for appointment as between direct recruitment and promotion is 1:1.

6. All in all, the petitioner believes that he was entitled to preferential treatment for appointment to the post of Assistant Engineer, since he has been holding a Diploma from the time of his entry into the Corporation. To this end, he has forwarded a representation dated 10.10.2008 addressed to the first respondent/State, which has not been disposed till date. Hence this writ petition.

7. Learned counsel for the respondent points out that his request for appointment as an Assistant Engineer has been rejected even at the time of his appointment as Technical Assistant, i.e., on 02.03.2001, insofar his alternative request was accepted and not the primary request. Thus he would state



that there is no ground as of now for considering him to the post of Assistant Engineer.

8. In saying so, learned counsel for the respondent ignores the service of the petitioner for 20 years, which, in my view, should be taken into account in deciding the request of the petitioner. Though a copy of representation dated 10.10.2008 is available on file, seeing as there is an elapse of 13 years from date of filing of this writ petition, the petitioner is permitted to file a fresh representation before the third respondent setting out his educational as well as service credentials, and upon receipt of the same, the petitioner shall be heard and his request for promotion to the post of Assistant Engineer considered, in accordance with law and judicial precedents, if any, circulated by the petitioner, within a period of six weeks from date of receipt of the representation.

9. This writ petition is disposed in the aforesaid terms. Connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

rkp

To

1. The Government of Tamil Nadu,
Municipal Administration and Water
Supply Department, Secretariat,
Chennai - 600 005.
2. The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
3. The Commissioner,
Salem City Corporation,
Salem.

+1cc to the Government Pleader, S.R.No.45234/21

W.P. No.30354 of 2008
and M.P. No.1 of 2008

RLP(CO)

RGA(01/10/2021)