

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6998 of 2021
(Heard through VC)

R.Palanivel

... Petitioner

-vs-

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

2.The Commissioner,
Erode Corporation,
Erode.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to re-designated as Assistant Engineer from Junior Engineer to the petitioner based on the petitioner representation dated 07.05.2020 and reminder dated 11.06.2020, 18.02.2021 and 25.02.2021.

For Petitioner : Mr.P.Rajavel

For Respondent-1 : Mr.P.V.Selvakumar
Additional Government Pleader

For Respondent-2 : Mr.Rajamathivanan

O R D E R

The petitioner has come up with the above writ petition seeking a direction to the second respondent to re-designate him as Assistant Engineer from Junior Engineer based on his representation dated 07.05.2020 and reminder dated 11.06.2020, 18.02.2021 and 25.02.2021.

2. Mr.P.V.Selvakumar, learned Additional Government Pleader takes notice on behalf of the respondent No.1. Mr.Rajamathivanan, learned counsel takes notice on behalf of the respondent No.2.

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

4. The case of the petitioner is that the petitioner was working as Technical Assistant in the second respondent-Corporation from 09.10.2009. Since the petitioner had completed Diploma in Electrical and Electronics Engineering and also B.Tech. in Electrical Engineering in the year 2014, he had given a request to the second respondent-Corporation to promote him to the next higher post i.e. Junior Engineer. Further the Government accepts the recommendation of the Official Committee and directs that the Junior Engineer in Municipalities/Corporation possessing B.E. Degree may be re-designated as Assistant Engineer. The second respondent-Corporation also re-designated one S.Somasundaram and T.Vijayakumar as Assistant Engineer from Junior Engineer as per G.O.No.221, Municipal Administration and Water Supply Department dated 27.08.1992 and G.O.No.304, Municipal Administration and Water Supply Department dated 14.06.2010, respectively. Hence, the petitioner has made a representation to the second respondent-Corporation on 07.05.2020 and reminder representations on 11.06.2020, 18.02.2021 and 25.02.2021 to re-designate him as Assistant Engineer from Junior Engineer. But the second respondent did not take any necessary action on his representation till date. Hence, this petition.

5. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representations are already pending with the second respondent, the writ petition is disposed of with the following directions:

i) A direction is issued to the second respondent herein to consider the representation of the petitioner dated 07.05.2020 and reminder representations dated 11.06.2020, 18.02.2021 and 25.02.2021, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 120 days from the date of receipt of a copy of this order.

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the second respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of his representations and this order, to the second respondent forthwith;

v) The second respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rsi
To

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

2.The Commissioner,
Erode Corporation, Erode.

+1cc to Mr.R.Rajavel, Advocate Sr.17426
+1cc to Mr.Rajamathivanan, Advocate Sr.17427
+1cc to the Government Pleader Sr.17751

W.P.No.6998 of 2021

um[co]
srg 08/07/2021