



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P(MD)No.9837 of 2021

and

W.M.P(MD)Nos.7560 and 9321 of 2021

D.Panneer Selvam

... Petitioner

Vs

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Municipal Administration and Water Supply,
(Town Panchayat) Department,
Secretariat, Chennai - 600 009.

2.The Director of Town Panchayats,
Kuralagam,
Chennai - 600 108.

3.The District Collector,
Sivagangai,
Sivagangai District.

4.The Assistant Director of Town Panchayats,
Sivagangai,
Sivagangai District.

5.The Executive Officer,
Ilayankudi Special Grade Town Panchayat,
Ilayankudi,
Sivagangai District.

6.The Executive Officer,
Manamadurai Special Grade Town Panchayat,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records pertaining to the order of reversion passed by the 5th respondent in Na.Ka.No.223 of 2017, dated 20.05.2021 and further order of surrendering of the post in his proceedings in Na.Ka.No.223 of 2017, dated 20.05.2021 and consequential order passed by the 6th respondent in his proceedings in Na.Ka.No.347/2021/A1, dated



26.05.2021 and quash the same and direct the respondents to promote the petitioner as Sanitary Inspector with all consequential benefits.

For Petitioner : Mr.V.Panneer Selvam
For Respondents : Mr.Veera Kathiravan
Additional Advocate General,
assisted by
Mr.Shaji Bino,
Special Government Pleader

R5 & R6 : No Appearance

ORDER

This writ petition is filed challenging the impugned order, wherein the petitioner has been reverted to the post of Water Tank Watchman from Sanitary Supervisor by the fifth respondent and the consequential transfer order.

2.The learned Counsel for the petitioner submits that the petitioner has been initially appointed as Water Tank Watchman in the year 1986 on consolidated pay and later his pay was fixed as Rs.1700/- on 01.03.2001. Thereafter, the petitioner was posted as Sanitary Supervisor on 19.11.2001 in time scale. While so, on 29.04.2002 the fifth respondent passed an order reverting the petitioner to the post of Water Tank Watchman. The petitioner, challenging the said order approached this Court in W.P.No.19769 of 2002, wherein this Court by order dated 02.09.2003 set aside the said order and remitted the matter for fresh consideration. Subsequently, the petitioner's probation was declared on 22.06.2006 in the post of Sanitary Supervisor.

3.The learned Counsel for the petitioner further submits that after completion of ten years of service, the petitioner was awarded selection grade in the cadre of Sanitary Supervisor. His next post of promotion is Sanitary Inspector, for which the petitioner has undergone Training in Pudukottai district from 15.04.2015 to 14.05.2016 and deposited a sum of Rs.10,000/-. While so one post of Sanitary Inspector fell vacant in the fifth respondent Panchayat. Therefore, the petitioner has given representation to consider him for promotion to the post of Sanitary Inspector. Since no order was passed on the representation, the petitioner filed a writ petition in W.P(MD)No.18201 of 2016 for a mandamus to consider his representation dated 29.06.2016, wherein, this Court disposed off the writ petition with a direction to the respondents to consider the petitioner's representation within a period of four weeks.

4.The learned Counsel further submits that while things stood so, the fourth respondent passed an order that the petitioner's appointment in the time scale of pay is irregular and therefore, the



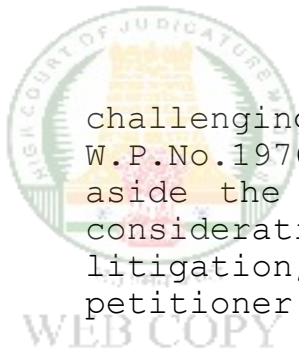
petitioner's appointment cannot be considered for promotion to the post of Sanitary Inspector. In the meantime, proposal was sent to the authorities, for ratifying the promotion of the petitioner as Sanitary Supervisor, but there was no order passed and therefore, the petitioner was not considered for promotion to the post of Sanitary Inspector. Under such circumstances, the fifth respondent passed the order of reversion on 20.05.2021 reverting the petitioner from the post of Sanitary Supervisor to Water Tank Watchman and further the petitioner was transferred to other Town Panchayat by proceedings dated 26.05.2021. Therefore, the petitioner has filed this writ petition, challenging the above said reversion and transfer orders.

5.The learned Counsel for the petitioner further submits that the petitioner having served nearly for twenty years as Sanitary Supervisor is eligible for promotion to the post of Sanitary Inspector and the orders of reversion and transfer are illegal and therefore, they are liable to be set aside.

6.Mr.Veera Kathiravan, learned Additional Advocate General assisted by Mr.S.Shaji Bino, learned Special Government Pleader appearing for the respondents submitted that the petitioner was originally appointed as Water Tank Watchman in the year 1986, thereafter was appointed on consolidated pay on 13.11.1987. Subsequently, the petitioner was posted as Sanitary Supervisor on 19.11.2001 in time scale of pay. However it was later found that the petitioner has been appointed in the post of Sanitary Supervisor without prior permission from the Government and as such the said appointment is in violation of rules and it is an irregular appointment. Therefore, disciplinary proceedings were initiated against the appointing authority, namely, one A.Mohammed Ismail, then Ilayankudi Executive Officer under under Section 17(A) of Tamil Nadu Civil Services (Discipline and Appeal) Rules and in conclusion of the same, he was imposed with a punishment of stoppage of increment with cumulative effect vide proceedings Na.Ka.No.5476/2001/D2, dated 06.06.2005 by the District Collector, Sivagangai. Therefore, when the very initial appointment of the petitioner as Sanitary Supervisor is in violation of the rules, the petitioner cannot seek promotion to the next level. Therefore, there is no reason to interfere with the impugned proceedings.

7.Heard the learned Counsel on either side and perused the materials placed on record.

8.Perusal of the records shows that the petitioner was initially appointed as Water Tank Watchman in the year 1986, later he was brought under consolidated pay on 13.11.1987 and his pay was fixed as Rs.1700/- on 01.03.2001. Thereafter, the petitioner was posted as Sanitary Supervisor on 19.11.2001 in time scale of pay. On 29.04.2002 the fifth respondent passed an order reverting the petitioner to the post of Water Tank Watchman. The petitioner,



challenging the reversion order filed a writ petition in W.P.No.19769 of 2002 and this Court by order dated 02.09.2003 set aside the said reversion order and remitted the matter for fresh consideration to the authority concerned. After several rounds of litigation, the impugned order came to be passed reverting the petitioner to the post of Water Tank Watchman.

9.Further it is seen that as against the appointing authority, who has posted the petitioner as Sanitary Supervisor, disciplinary proceedings were initiated under Section 17(A) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and he was also imposed with a punishment of stoppage of increment for one year with cumulative effect, for appointing the petitioner in the particular post without prior permission of the Government and in violation of the rules.

10.When the appointment of the petitioner in the post of Sanitary Supervisor is found to be irregular and against the rules, the action of the respondents reverting the petitioner from the said post cannot be stated to be arbitrary and illegal. Therefore, this Court does not find any illegality or irregularity in the impugned order and as such this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

11.However, the grievance of the petitioner is that he was not only reverted from the particular post but also was transferred to a far away place. Therefore, this Court suggests the respondents to consider the grievance of the petitioner and find out the possibility of posting the petitioner in any nearby place and proceed further, since he has already been suffering with the order of reversion.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

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

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+1 CC to M/s.SPL GP (SR-34974[F] dated 18/11/2021)

W.P (MD) No. 9837 of 2021

17.11.2021

MGJ(03.12.2021) 5P 8C