



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.16754 of 2020

and

W.M.P. (MD)Nos.13986 & 13990 of 2020

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S.Lenin

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. By it's Principal Secretary to Government,
Municipal Administration and Water Supply
Department,
Secretariat, Chennai.

2.The State of Tamil Nadu,
Rep. By it's Additional Chief Secretary to
Government,
Municipal Administration and Water Supply
Department,
Secretariat, Chennai.

3.The Commissioner of Municipal Administration,
O/o. The Commissioner of Municipal Administration,
Chennai - 5.

4.The Commissioner,
Tirunelveli City Municipal Corporation,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the fourth respondent vide his impugned proceedings in e.f.vz;.rpl/306/2020, dated 15.10.2020 and the consequential impugned seniority list published by the fourth respondent vide impugned proceedings in e.f.vz;.rpl/306/2020, dated Nil.10.2020 insofar as it relates to the promotion of the petitioner is concerned and quash the same as illegal and consequently to direct the fourth respondent to promote the petitioner to the post of Assistant Executive Engineer for the year 2020 in conformity with clause 14 of schedule 11 part-A II of the Tamil Nadu Government Servant (Conditions of Service) Act, 2016 within the period that may be stipulated by this Court.

For Petitioner : Mr.Ajmalkhan, Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.P.Subbaraj,
Government Advocate for R1 to R3
Mr.Aayiram K.Selvakumar for R4

**ORDER**

The petitioner has filed this Writ Petition challenging the order of the fourth respondent dated 15.10.2020 and the consequential impugned seniority list published by the fourth respondent vide impugned proceedings in e.f.vz;.rp1/306/2020 and for a consequential direction to the fourth respondent to promote the petitioner to the post of Assistant Executive Engineer for the year 2020.

2. According to the petitioner, in the seniority list, his name was placed above one Ramasamy, all along for more than 20 years and now his name was placed below the said Ramasamy in the tentative seniority list published by the fourth respondent on 19.05.2020, on the ground of punishment of censure was imposed against him and therefore, he is not entitled to promotion. The learned Senior Counsel appearing for the petitioner submitted that punishment of censure is not a ground for denying the promotion.

3. The fourth respondent filed counter affidavit. The learned counsel appearing for the fourth respondent submitted that both the petitioner and the said Ramasamy were called for to submit their objections and both of them gave statement before the fourth respondent on 21.06.2021 and Ramasamy has no objection to place him below the petitioner. The statement given by the said Ramasamy and the petitioner is now being considered by the fourth respondent and prayed for orders in the Writ Petition.

4. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for respondents 1 to 3 and the learned counsel appearing for the fourth respondent and perused the materials available on record.

5. Considering the above materials and in view of the order passed on 26.07.2021 (today) in W.P.(MD)No.16322 of 2020, quashing the order of punishment of censure and the submission made by the learned Senior Counsel appearing for the petitioner and the learned counsel for the fourth respondent that based on the no objection of the said Ramasamy, the petitioner is now being considered by the fourth respondent, the fourth respondent is directed to pass orders on the statement given by the said Ramasamy and petitioner within a period of two weeks from the date of receipt of a copy of this order.

6. With the above direction, the impugned order dated 15.10.2020 and the impugned seniority list of the fourth respondent dated 15.10.2020 are set aside in respect of the petitioner and the said Ramasamy alone and the matter is remanded back to the fourth respondent for fresh consideration. The fourth respondent is directed to consider and pass orders afresh, considering the



objection of the petitioner and Ramasamy. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

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 Principal Secretary to Government,
State of Tamil Nadu,
Municipal Administration and Water Supply
Department,
Secretariat, Chennai.

2.The Additional Chief Secretary to
Government,
State of Tamil Nadu,
Municipal Administration and Water Supply
Department,
Secretariat, Chennai.

3.The Commissioner of Municipal Administration,
O/o. The Commissioner of Municipal Administration,
Chennai - 5.

4.The Commissioner,
Tirunelveli City Municipal Corporation,
Tirunelveli District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-23946[F] dated 27/07/2021)

+1 CC to M/s.SPL GP (SR-24000[F] dated 27/07/2021)

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