



WEB COPY



WP No.36977 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-11-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.36977 of 2016

G.Kamaraj

..

Petitioner

vs.

1.The Secretary to Government,
Municipal Administration and Water Supply
Department,
Fort St. George,
Chennai – 600 009.

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

3.The Commissioner,
Salem City Municipal Corporation,
Salem.

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India,
praying for the issuance of a Writ of Mandamus, directing the respondents



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herein to promote the petitioner to the post of City Engineer by considering the representation of the petitioner dated 10.09.2016 and in view of the recommendation of the third respondent in Na.Ka.No.C3/1627/2008 dated 21.01.2010.

For Petitioner : Mr.T.Dharani for
Mr.K.Raja.

For Respondents-1 and 2 : Mr.R.L.Karthika,
Government Advocate.

For Respondent-3 : Ms.N.Devi

ORDER

The grievance of the writ petitioner is that he was denied promotion to the post of City Engineer on par with his juniors.

2. The learned counsel for the petitioner made a submission that the immediate senior to the writ petitioner was promoted to the post of City Engineer, despite the fact that he was facing charges. In respect of an irregularity or illegality, there cannot be any comparison.

3. The principles of Article 14 cannot be claimed as against an



illegality, if any, committed by the Competent Authorities. As per the Rules, the pendency of charge memo is a bar for promotion. While-so the promotion granted to the senior to the writ petitioner that too during the pendency of the charges, cannot be considered as in accordance with law and therefore based on the said irregularity, if at all committed by the Authorities, the same cannot be followed for the purpose of issuing a direction in the writ proceedings to grant promotion to the writ petitioner.

4. That apart, the learned Government Advocate appearing on behalf of the respondents 1 and 2 and the learned counsel appearing on behalf of the third respondent, have brought to the notice of this Court that a criminal case was registered against the writ petitioner under the Prevention of Corruption Act. The petitioner was placed under suspension by the Government in G.O.(2D) No.23, Municipal Administration and Water Supply Department, dated 28.03.2019 and he was not allowed to retire from service and his services are extended under the Fundamental Rules, enabling the Department to consider the departmental disciplinary proceedings.



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5. In view of the fact that the criminal case was registered against the writ petitioner under the Prevention of Corruption Act and he was placed under suspension and was not allowed to retire from service, his case for grant of promotion at this length of time, cannot be considered and in the event of exoneration of criminal proceedings pending against him, the petitioner is at liberty to approach the Authorities for redressal of his grievances.

6. With the abovesaid liberty, the writ petition stands disposed of. However, there shall be no order as to costs.

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Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
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To

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S.M.SUBRAMANIAM, J.



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