



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9658 of 2014

K.Madheswaran

... Petitioner

Vs.

1.Commissioner of Municipal Administration,
Chepauk, Chennai 600 005.

2.Salem City Municipal Corporation,
Rep.by its Commissioner, Salem.

... Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India praying for an issuance of a Writ of Mandamus directing the Respondents 1 and 2 to consider the Petitioner representation dated 10.10.2013 in the light of the letter ROC. No. 35845/2004/MCA2 Dt. 20.04.2006 and regularise his services in the post of Junior Assistant w.e.f. 31.05.2006 the date from which the Petitioner has been discharging his duties as Junior Assistant together with monetary and other service benefits

For Petitioner : Mr.Saravana kumar

For Respondent : Mr.S.Prabhakaran
No.1 Government Advocate

For Respondent
No.2 : No appearance

O R D E R

The relief sought for in the present writ petition is to direct the respondents 1 & 2 to consider the petitioner's representation dated 10.10.2013 in the light of the letter issued in ROC No.35845/2004/MCA2, dated 20.04.2006 and regularise his services in the post of Junior Assistant with effect from 31.05.2006, the date from which the petitioner has been discharging his duties as Junior Assistant.

2.Admittedly, the writ petitioner was not appointed as Junior Assistant. The petitioner was appointed as Sanitary



Worker in the respondents Municipal Corporation. The order of appointment issued to the writ petitioner in proceedings dated 31.05.2006 reveals that the petitioner was appointed as Sanitary Worker. When the order of appointment reveals that the petitioner was appointed as Sanitary Worker, the learned counsel for the petitioner made a submission that by virtue of his qualification, he is permitted to perform the duties attached to the post of Junior Assistant and therefore, his services has to be regularised in the post of Junior Assistant.

3. Mere utilization of the services by the Municipal Corporation on account of certain administrative exigencies or emergent circumstances would not confer any right to hold the particular post, in which, an employee was not appointed. In Some emergent circumstances, the employees are directed to perform certain nature of duties in the interest of public. While doing so, they cannot claim any privilege or right, for which, otherwise they are not entitled to in accordance with the service conditions attached to the post in which they were appointed.

4. In the present case, admittedly, the petitioner was appointed as Sanitary Worker and he is receiving the salary attached to the said post. He cannot claim the benefits attached to the post of Junior Assistant nor he cannot be regularised in the post of Junior Assistant. If at all the petitioner participates in the process of selection for appointment to the post of Junior Assistant and if he is appointed to the said post, then alone he may be entitled for the benefit but not otherwise. Thus, the petitioner is at liberty to participate in the process of selection if any notified to the post of the Junior Assistant or to any other post. If he is selected and appointed, then he will be conferred with the benefits attached to the said post. This being the principles to be followed, mere performance of certain duties on certain emergency circumstances would not confer any right on the employee to claim particular post or salary, for which, he is not entitled or otherwise in accordance with the rules in force.

5. In view of the facts and circumstances, the petitioner has not established any right for the purpose of considering the relief and prosecute the writ petition. Accordingly, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar



sms/sli

To

1.Commissioner of Municipal Administration,
Chepauk, Chennai 600 005.

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

+lcc to the Government Pleader, S.R.No.34520

W.P.No.9658 of 2014

PMK(CO)
SB(22/06/2022)