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W.P.No.24594 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.24594 of 2022

A.Bharat

.... Petitioner

-Vs-

- 1 The Corporation Commissioner
Greater Chennai Corporation, Ripon Building
Chennai 600 003.
 - 2 The City Health Officer
Public Health Department Greater Chennai
Corporation, Ripon Building, Chennai 600 003.
 - 3 The Zonal Welfare Officer
Public Health Department Greater Chennai
Corporation, Ripon Building, Chennai 600 003.
 - 4 The Assistant Commissioner
Zone-13 Greater Chennai Corporation No.15
Dr.Muthulakshmi Salai, Adyar, Chennai-600020.
- Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to appoint the petitioner in existing vacancy for the post of Burial Ground Assistant in Thiruvanmiyur Crematorium or any other crematoriums under the Greater Chennai Corporation by considering his representation dated 08.07.2022.



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For Petitioner : Ms.V.Sahana
For Respondents : Mr.S.Gopinathan,
Standing Counsel

ORDER

The prayer sought for herein is for a Writ of Mandamus directing the respondents to appoint the petitioner in existing vacancy for the post of Burial Ground Assistant in Thiruvanmiyur Crematorium or any other crematoriums under the Greater Chennai Corporation by considering his representation dated 08.07.2022.

2. The petitioner claims that he has been working as Vettiyaan at the Thiruvanmiyur Crematorium coming under Chennai Corporation. The post of Vettiyan was originally given as licensee and has been subsequently converted into the Burial Ground Assistant and in that post even though entire job is undertaken by the petitioner as claimed by him, he may be considered for appointment to the post of Assistant at the burial ground and in this regard the petitioner has given a representation that was replied by the respondent Corporation stating that as of now there is no vacancy and no proposal to appoint any new Burial Ground Assistant and whenever any vacancy arises or such situation arises, the request of the petitioner would be considered.



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3. Only in that circumstances, the petitioner has approached this Court by filing this writ petition, after giving a representation dated 08.07.2022 by stating that there are vacancies in the Tiruvanmiyur burial ground itself, where the petitioner had been working and that apart, there are vacancies in Bethel Nagar, Injambakkam and Kallukuttai, Perungudi ie., Zone 14 and Zone 15 of the Chennai Corporation. Therefore, the petitioner sought to consider him for any of those vacancies.

4. Heard Ms.V.Sahana learned counsel for the petitioner and Mr.S.Gopinathan, learned Standing Counsel for the respondents.

Pursuant to the notice issued to the respondent Corporation, the learned Standing Counsel has filed written instructions ie., by way of the report of the respondents, wherein they have stated the following.

"3. I state that in respect of Thiruvanmiyur Burial Ground. The Chennai Corporation granted licence to Mr.P.Srinivasan to do the Vettiyan work. When the said Mr.P.Srinivasan died on 28.05.1993, his son Mr.S.Babu continued Vettiyan work on obtaining the licence from the Chennai Corporation.

4. I state that as per the proceedings of the Commissioner, Chennai Corporation in P.H.D.Na.Ka.(VS)706/2006 dated



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20.07.2007, those who were functioning as licensed Vettiyan under the Chennai Corporation limit, converted their status as Burial Ground Assistant and Mr.S.Babu appointed as Thiruvanmiyur Burial Ground Assistant, on 23.07.2007. As on date, said Mr.S.Babu is working as Burial Ground Assistant at Thiruvanmiyur Burial Ground.

5.I state that those who were functioning as licensed Vettiyan are appointed as Burial Ground Assistant wherever vacancy arosed under the control of the Chennai Corporation Burial Ground.

6. I state that in respect of the petitioner and his father, they never functioned as Vettiyan or licensed Vettiyan in the Thiruvanmiyur Burial Ground. The petitioner himself admitted that his father and himself involved in the funeral activities (ஈமச்சடங்கு). While considering his representation by reply dated 09.07.2021, specifically informed that there is no post to do the funeral activities in Burial Grounds under the control of the Greater Chennai Corporation and if any post created and process of appointment commenced, the petitioner will be considered. Therefore, as on date except Burial Ground Assistant no other posts are available to consider the request of the petitioner."



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5. That apart, the learned Standing Counsel would also submit that, the petitioner at no point of time had worked as Vettiyan or Assistant at Thiruvanmiyur Burial Ground and in fact the said burial ground was looked after by one Srinivasan as Licenced Vettiyan and after his demise his son one Babu was given the licence by proceedings of the Corporation dated 23.07.2007 and subsequently since the Corporation had passed a resolution on 28.05.1993 and the Government issued a letter dated 18.07.2007, the persons who have been given the license as Vettiyan at various burial grounds under the Chennai Corporation are to be converted as Burial Ground Assistants and they can be brought under time scale of pay, accordingly by order dated 20.07.2007 one S.Babu has been appointed as Burial Ground Assistant and he has been brought under time scale of pay. Therefore, at no point of time the petitioner had been working as either licensee or Burial Ground Assistant at the Tiruvanmiyur Burial Ground continuously and since the said Babu has been working, there is no vacancy and there is no question of considering the candidature of the petitioner for appointment to the post of Burial Ground Assistant and that is the reason that was given in the reply given by the Chennai Corporation. The learned Standing Counsel therefore seeks dismissal of the writ petition.



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6. Heard the learned counsel appearing for both sides and have perused the materials placed on record.

Since the file related to the appointment of Burial Ground Assistant at Tiruvanmiyur Burial Ground has been produced before this Court, where two orders dated 09.01.2001 as well as the order dated 20.07.2007 are found, the same has been taken note of. Therefore, as of now there is no vacancy at the Tiruvanmiyur Burial Ground, where one Babu has been appointed from 2007 onwards and he has been continuously working. Hence, the plea raised by the petitioner as if the petitioner has been working as Vettiyan or Assistant at the said burial ground cannot be countenanced.

7. Therefore, the direction as sought for by the petitioner in this writ petition cannot be granted. However, insofar as the further plea made by the petitioner that there are still vacancies available in two places viz., Bethel Nagar, Injambakkam and Kallukuttai, Perungudi ie., Zone 14 and Zone 15 of the Chennai Corporation at least for the said vacancies the candidature can be considered, as has been stated in the reply given by the respondent Corporation for any future vacancies that may arise.

8. With regard to the said plea, this Court feels that a direction can be



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given to the respondent Corporation for considering the candidature of the petitioner if he is otherwise eligible to hold the post of Burial Ground Assistant in any of the vacancy in the burial ground under the Chennai Corporation, such post has to be immediately filled up as per the norms fixed by the Chennai Corporation in this regard. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

- That there shall be a direction to the respondent Corporation to consider the request of the petitioner made by his representation dated 08.07.2022 for considering his candidature for appointment as Burial Ground Assistant in any of the burial grounds where it was claimed that there are vacancies and after considering the petitioner's candidature, if he is suitable for such appointment he may be considered and appointed as such, provided if the petitioner satisfies the norms prescribed in this regard by the Chennai Corporation.
- The needful as indicated above shall be undertaken by the respondents within a period of twelve weeks from the date of receipt of a copy of this order.



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- It is made clear that if no vacancy has arisen or where the vacancy cannot be filled up by any external candidate because of any internal candidate already working there, the candidature of the petitioner can be kept pending and be considered in future point of time where if any new vacancy in any of the burial ground arises.

9. With above directions, this writ petition is disposed of. No costs.

20.09.2022

Index : Yes/No
Internet : Yes/No
KST



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R. SURESH KUMAR, J.

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