



WEB COPY



WP No.35083 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-11-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.35083 of 2019

And

WMP Nos.35875 of 2019 and 11677 of 2020

Harikrishnan

..

Petitioner

VS.

- 1.The Secretary to Government,
Municipal Administration and Water Supply
Department,
Fort St. George,
Chennai-9.
- 2.The Commissioner of Municipal Administration,
Chepauk,
Chennai.
- 3.Mr.A.Kulandai Devaraj
- 4.Mr.T.Anbuselvi
- 5.V.S.Prakash
- 6.D.Jayaprakash

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7.M.R.Saravanan

8.R.Shankar

9.M.Jalaludheen

10.G.Geetha

11.P.Vasanthi

12.M.Senthilvel

13.A.Mary Bindu

14.S.Malathi

15.N.Nanjundan

16.M.Jayanthi

17.P.Meenatchi

18.K.Nagarathinam

19.K.Murugan

20.G.Ravi

[R-3 to R-20 impleaded vide order of
Court dated 27.08.2020 made in
WMP No.10959 of 2020 in
WP No.35083 of 2019] ..

Respondents



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Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari calling for the records pertaining to the impugned proceedings of the second respondent dated 28.11.2019 made in R.O.C.Nos.26395/2019/K2, 26396/2019/K2, 26394/2019/K3, 26397/2019/K3 and 26398/2019/K3 and consequential impugned proceedings of the second respondent in Letter No.21524/ME1/2019-8 dated 21.01.2021, quash the same and consequently direct the respondents to adopt the State-wide seniority and promotion for the Class V employees by making necessary Amendment in Rule 7(2) of the Tamil Nadu Municipal General Service Rules on par with Rule 7(1). [Prayer amended vide order of Court dated 09.11.2022 made in WMP No.26981 of 2022 in WP No.35083 of 2019].

For Petitioner	: Mr.L.Chandrakumar for Mr.D.R.Arun Kumar
For Respondents-1 and 2	: Mr.K.Surendran, Additional Government Pleader.
For Respondents-3 to 20	: Mr.R.Ramesh

ORDER

Through amending the prayer in the present writ petition, the writ petitioner challenged the order of rejection dated 21.01.2021 issued by



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the first respondent.

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2. The learned counsel for the writ petitioner made a submission that the petitioner joined as Junior Assistant in Thiruvarur Municipality and subsequently promoted to the post of Assistant on 04.10.2007.

3. The grievance of the writ petitioner is that there is no equal opportunity in promotion to the post of Superintendent on account of the prevailing rules, which causes discrimination amongst the employees working in various Municipalities across the State of Tamil Nadu.

4. The learned counsel appearing on behalf of the petitioner made a submission that as far as Group V Services are concerned, Unit wise seniority is being adopted for the purpose of fixing the seniority and to grant promotion. Five Units in 12 Districts are fixed at the earlier point of time as per Rule 7 of the Tamil Nadu Municipal General Service Rules. As of now 38 Districts and 121 Municipalities are there and therefore the rules, which



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were prevailing earlier if adopted would result in causing discrimination amongst the senior employees working in various Municipalities within the Unit or in other Units. Thus, in the event of adopting the Old Rules of five Units in 12 Districts, many seniors would be deprived of their opportunity of further promotion to the higher post. In this context, the petitioner submitted a representation to reconsider the rules and consider the grievances of the senior employees working in various Municipalities without promotion for long years. The said representation was rejected on the ground that the promotions are granted in accordance with the rules in force.

5. The learned Additional Government Pleader appearing on behalf of the official respondents made a submission that the Authorities are following the rules in force for grant of promotion and therefore, the writ petition is to be rejected.

6. The learned counsel appearing on behalf of the contested respondents made a submission that they were promoted in accordance with



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the rules and in the order of seniority and thus there is no infirmity in respect of the promotions granted to the contesting respondents.

7. The rules prevailing as of now are not disputed in the present writ petition. Further the rules are not challenged in this writ petition. The grievance of the writ petitioner is that the rules as of now is causing discrimination and denial of equal opportunity in the matter of promotion to all employees, who all are seniors in service.

8. Equal opportunity in promotion is also a constitutional mandate. In the matter of equal opportunity, the Authorities have to consider the scope of promotion and the method and the rules existing for grant of promotion. If the existing rules are causing discrimination in the matter of promotion amongst the seniors and juniors, then appropriate actions are to be initiated to revise the rules, so as to ensure equal opportunity to all the employees in the matter of promotion.



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9. That apart, the existing rule was framed when there were 12

Districts and those 12 Districts were classified into five Units for the purpose of fixation of seniority. As of now 38 Districts were constituted and 121 Municipalities are functioning. This being the vast development made in the Department of Municipal Administration, the Authorities Competent have to revisit the rules in force and review wherever required in order to ensure equal opportunity in the matter of promotion to all the employees.

10. In the present case, the petitioner states that his juniors were promoted to the higher post and despite the fact that he has served long years in the post of Assistant, he is unable to get promotion to the higher post.

11. May that as it be, this Court is of the considered opinion that the rules in Tamil Nadu General Service Rules if causes any discrepancy or discrimination in the matter of promotion or depriving the seniors from getting promotion, then it is to be revisited and accordingly suitable amendments are to be made, so as to ensure equal opportunity in



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the matter of promotion to all the employees.

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12. The reasons stated in constituting Unit in the order impugned is that the employees in the lower cadre shall suffer due to transfer from one place to another. Such a reason is sound as far as plight of the class IV or class V employees or lower cadre employees are concerned. However, it is brought to the notice of this Court that for Class IX and Class X employees State-wide seniority is adopted for promotion, ignoring Rule 7(3) of the Tamil Nadu Municipal General Service Rules. When State-wide seniority has been fixed for Class IX and Class X employees, ignoring the Rule 7(3) of the Service Rules, the Class V employees alone are fixed Unit-wise seniority, which causes heart burning issues amongst the senior employees working in Municipalities.

13. Thus those issues are to be addressed by the first respondent and suitable remedial measures are to be provided for the aggrieved senior employees, who all are working long years in the same post and stagnated without any promotional opportunity.



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14. Under these circumstances, the first respondent is directed to reconsider the entire issue by conducting an elaborate study and considering the grievances of the senior employees in various Municipalities and accordingly take a decision and pass appropriate orders as expeditiously as possible. The writ petitioner along with other aggrieved employees or otherwise, is at liberty to submit fresh representations setting out all the grounds and grievances, within a period of two weeks from the date of receipt of a copy of this order. It is made clear that promotions already granted to the contested respondents need not be interfered with as there is no infirmity in respect of their promotions.

15. With the abovesaid liberty, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
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S.M.SUBRAMANIAM, J.

Svn

To

- 1.The Secretary to Government,
Municipal Administration and Water Supply
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Chennai-9.
- 2.The Commissioner of Municipal Administration,
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