



WEB COPY

W.P.(MD)Nos.



13:

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.10.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)Nos.12878 and 20168 of 2013

and

M.P. (MD)Nos.2 and 2 of 2013

W.P. (MD)No.12878 of 2013:

P.Pandeeswari

... Petitioner

vs.

1.The District Collector,
Viruthunagar District.

2.The Regional Director of Municipality ,
Tirunelveli Region,
Tirunelveli.

3.The Commissioner,
Srivilliputhur Municipality,
Srivilliputhur,
Viruthunagar District.

4.Palaniyammal
5.Senbagapetchi
6.Chitra Devi
7.Ponnuthai
8.Vasanthi

... Respondents

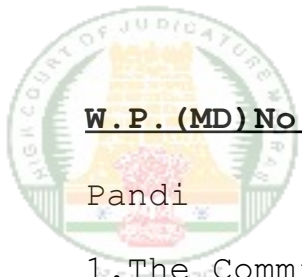
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Execution order in Na.Ka.No.H1/2424/2010, dated 24.05.2013, issued by the 3rd respondent and to quash the same as illegal and consequently, to direct the 3rd respondent to issue a fresh notification for the purpose of the interview of the Sweeper post.

For Petitioner : Mr.M.Maran

For R1 and 2 : M/s.D.Farjana Ghoushia
Special Government Pleader

For R3 : Mr.P.Srinivas

For R4 to 8 : Mr.M.Thirunavukkarasu



W.P. (MD)No.20168 of 2013:

Pandi

... Petitioner

vs.

- 1.The Commissioner,
Municipal Administration and Water
Supply Department,
Ezhilagam, Chepaukkam,
Chennai - 05.
- 2.The Commissioner,
Srivilliputhur Municipality,
Srivilliputhur,
Virudhunagar District.
- 3.The District Employment Officer,
Office of District Employment Exchange,
Virudhunagar District.
- 4.K.Kadarkarai
- 5.P.Ramesh Kumar
- 6.M.Ramar
- 7.A.Shenbagapetchi
- 8.K.Santhanakalai
- 9.K.Mahendran
- 10.S.Kaliraj
- 11.M.Chitra Devi
- 12.R.Vasanthi
- 13.K.Ponnuthai
- 14.G.Parameshwari
- 15.O.Govindaraj
- 16.R.Arumugam
- 17.K.Palaniammal
- 18.N.Pandi
- 19.G.Muruganantham
- 20.Senthil Muthu
- 21.M.Kannithai
- 22.R.Rani
- 23.C.Tharmaraja
- 24.L.Ramasubbu
- 25.R.Sanjeevi
- 26.A.Pothulakshmi
- 27.N.Palanisamy
- 28.N.Balakumar
- 29.R.Ganeshkumar
- 30.R.Krishnakumar
- 31.S.Raviraj
- 32.Palanisamy

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent in letter No: X2/23/2013, dated 04.03.2013 and letter No: X2/24/2013, dated 04.03.2013 and letter No: X2/23/2013, dated 16.05.2013 and consequential proceedings of the 2nd respondent 29 in numbers all vide Na.Ka.No: H1/2424/2010, dated 24.05.2013 and to quash all the same as selectively discriminated, illegal and unconstitutional and consequentially, to direct the 3rd respondent to sponsor list of candidates eligible to be appointed as Sweeper without communal discrimination to the 2nd respondent and consequentially, to direct the 2nd respondent to make appointments to the post of Sweeper without any discrimination on the basis of community, sex, creed and age; further, to direct him to consider the petitioner for the same on his merits and eligibility more particularly within a time frame as may be stipulated by this Court to make fresh appointment.

For Petitioner : Mr.S.Balamurugan

For R1 and 3 : M/s.D.Farjana Ghoushia
Special Government Pleader

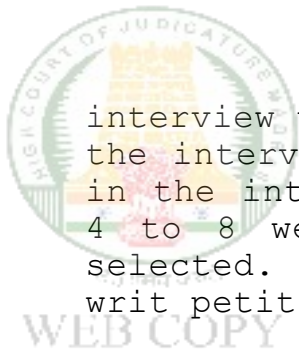
For R2 : Mr.P.Srinivas

For R4 to 32 : No appearance

COMMON ORDER

This writ petition in W.P.(MD)No.12878 of 2013 is filed for issuance of a writ of Certiorarified Mandamus, to quash the impugned Execution order in Na.Ka.No.H1/2424/2010, dated 24.05.2013, issued by the 3rd respondent and consequently, to direct the 3rd respondent to issue a fresh notification for the purpose of the interview of the Sweeper post.

2. The facts as stated in the affidavit of W.P.(MD)No.12878 of 2013 is that the petitioner belongs to Scheduled Caste. On 24.08.2010, the petitioner had registered her name in the Employment Exchange for the post of Sweeper, OC women non-priority category in the month of March 2013. The 3rd respondent has issued notification for the post of Sweeper and called for 63 vacancies of Sweeper posts and 5 posts have been classified for OC women non-priority category. The 3rd respondent requested the list from the District Employment Exchange Office and a list was furnished. Totally, 25 OC women non-priority list were called for to fill up 5 Sweeper posts, which is in the ratio of 1:5. After receiving the list, the 3rd respondent has sent an interview letter to the petitioner and others, vide proceedings, dated 06.05.2013 and the



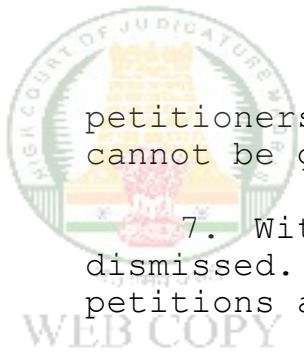
interview was conducted on 22.05.2013. The petitioner has attended the interview along with relevant documents and has performed well in the interview conducted by the 3rd respondent. The respondents 4 to 8 were selected for the post but the petitioner was not selected. Aggrieved over the same, the petitioner has filed the writ petition in W.P.(MD)No.12878 of 2013.

3.The contention of the petitioner is that the list of candidates are not on the basis of seniority and the respondents have picked the candidates arbitrarily. The interview was conducted in an arbitrary manner without any natural justice and the process of selection was also carried out without following the process and norms prescribed.

4. The individual respondents in W.P.(MD)No.12878 of 2013 have filed a counter affidavit stating that 1:5 ratio was followed and the list was called for from the District Employment Exchange Office, wherein 25 candidates were forwarded. Even though 69 vacancies of Sweeper posts were available, only 29 posts were filled up by conducting interview on 22.05.2013. The respondents 4 to 8 were sponsored by the District Employment Office and they attended the interview held on 22.05.2013. At the time of interview, the candidates were asked to do the field work for 5 to 10 minutes in order to see their performance. By considering the performance in the field and also considering the merit and ability, the official respondents have issued an appointment order to the individual respondents. The petitioner has not put forth any legal ground to interfere with the selection process and hence the issuing of the appointment order is legally valid. Moreover after recruitment, the individual respondents in both the writ petitions are working for more than 9 years and at this point of time, the appointment order issued to the individual respondents cannot be interfered with. Therefore, the respondents prayed to dismiss the writ petition. The other writ petition is also similar in nature except the fact the petitioner belongs to OC general category.

5. As rightly pointed out by the respondents, the petitioners in both the writ petitions have not raised any legal ground to interfere with the selection process. A feeble ground was raised stating that the respondents have assessed the performance and has recorded that the petitioners and one another recruited person's performance as "average", but the petitioners were not selected and the other person was selected. The respondents have exercised their discretionary power and this Court is of the considered opinion that the petitioners have not raised any legal ground. Hence the writ petitions cannot be entertained and are liable to be dismissed.

6. The learned Counsel appearing for the petitioner in both the writ petitions prayed to grant liberty to the petitioners for selection process. However, it is seen that the



petitioners are over aged as on date. Therefore, this writ cannot be granted at this point of time.

7. With the above said observation, the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/11/2022

Sub Assistant Registrar (CS)

Tmg

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 Commissioner,
Municipal Administration and Water
Supply Department,
Ezhilagam, Chepaukkam, Chennai - 05.
- 2.The District Employment Officer,
Office of District Employment Exchange,
Virudhunagar District.
- 3.The District Collector, Viruthunagar District.
- 4.The Regional Director of Municipality ,
Tirunelveli Region, Tirunelveli.
5. The Commissioner,
Srivilliputhur Municipality,
Srivilliputhur,
Viruthunagar District.

+2 CC to M/s.P.SRINIVAS, Advocate (SR-48670[F] & (SR-48671[F] dated 11/10/2022)

+1 CC to M/s.SPL.GP (SR-48721[F] dated 11/10/2022)

W.P. (MD) Nos.12878 and 20168 of 2013

10.10.2022

AMS (03.11.2022) 5P 9C

<https://www.mhc.tn.gov.in/judis>