



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.8165 of 2019
and
W.M.P.(MD) No.6417 of 2019

M.Santhanamuthu

... Petitioner

-vs-

1.The Commissioner of Municipal Administration,
MRC Nagar, St. Thomas Road,
Raja Annamalaipuram, Chennai-28.

2.The Commissioner,
Virudhunagar Municipality,
Virudhunagar.

... Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.6560/2017/C1 dated 28.09.2017 and quash the same and with a consequential direction directing the respondents to consider the petitioner for the appointment to the post of Pipeline Fitter Grade II Municipality.

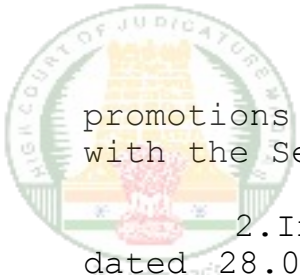
For Petitioner : Ms.Porkodi Karnan
for M/s.Polax Legal Solutions

For R1 : Mr.D.Sadiq Raja,
Additional Government Pleader

For R2 : Mr.M.Muthugeethayan,
Standing Counsel

O R D E R

Promotion *per se* cannot be claimed as a matter of right. However, consideration for promotion is a fundamental right. Mere availability of a vacancy in a particular post would not confer any right on the employee to seek promotion or appointment. All



promotions and appointments are to be made strictly in accordance with the Service Rules in force.

2. In the context of the above principles, the order impugned, dated 28.09.2017, rejecting the claim of the writ petitioner for appointment to the post of Pipeline Fitter Grade-II, is under challenge in the present writ petition.

3. Admittedly the petitioner is now working as Turn Cock and in view of the fact that it is a non-promotional post, the petitioner was already awarded with Selection Grade and Special Grade in the post of Turn Cock. The claim of the petitioner is that the post of Pipeline Fitter Grade-II is vacant. The petitioner states that he should be considered.

4. The learned Standing Counsel appearing on behalf of the 2nd respondent made a submission that the said post is to be filled up by way of Direct Recruitment as per the rules and if at all a notification is issued for Direct Recruitment and if the petitioner is otherwise qualified, then he can participate in the process of selection.

5. This Court is of the considered opinion that as stated above, promotion cannot be considered merely on the ground that the post is vacant. Whenever, an administrative decision is taken to fill up the post, then only the process is to be undertaken and thereafter, the eligible employees can participate in the process of selection. This being the factum, in the event of any such notification, the petitioner is at liberty to participate however, he cannot claim appointment or promotion by way of right, as in the present post, the petitioner has already been conferred with the benefit of Selection Grade and Special Grade in the next higher scale of pay. This being the factum, this Court do not find any infirmity in respect of the order impugned dated 28.09.2017.

6. Accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2022

Sub Assistant Registrar (CS)

abr



To

1.The Commissioner of Municipal Administration,
MRC Nagar, St. Thomas Road,
Raja Annamalaipuram, Chennai-28.

2.The Commissioner,
Virudhunagar Municipality, Virudhunagar.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-7870[F] dated
22/02/2022)

+1 CC to M/s.SPL GP (SR-7796[F] dated 22/02/2022)

+1 CC to M/s.M.MUTHU GEETHAYAN, Advocate (SR-7895[F] dated
22/02/2022)

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