



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.17133 of 2021

G.Esakkimuthu

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
Municipal Administration & Water Supply Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Director of Town Panchayats,
Directorate of Town Panchayats,
MRC Nagar, Rajah Annamalaipuram,
Chennai-600 028.

3.The District Collector,
Tenkasi District,
Tenkasi.

4.The Assistant Director of Town Panchayats,
Tirunelveli Zone,
Tirunelveli.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to directing the respondents to pass orders granting appointment to the petitioner in the post of Junior Assistant / Bill Collector in the existing vacancy in Town Panchayat in Tenkasi District based on the qualification of the petitioner as per G.O.Ms.No.206, Municipal Administration and Water Supply Department, dated 02.11.1995 in the light of the orders passed in the Writ Appeals in W.A.Nos.778 and 779 of 2017 dated 03.07.2018 with retrospective effect from the date of initial appointment as Sanitary Worker with all consequential and other attendant benefits including arrears of salary and further promotion of the petitioner in consideration of representation submitted by the petitioner dated 10.02.2021, within a time frame to be fixed by this Court.



For Petitioner : Mr.F.Deepak
For Respondents : Mr.A.K.Manikkam
Special Government Pleader
for RR1 to 4

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O R D E R

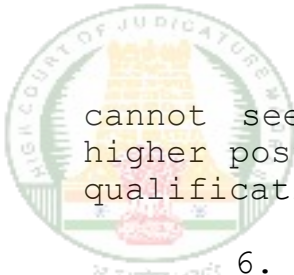
The relief sought for in the present Writ Petition is to direct the respondents to pass orders granting appointment to the petitioner in the post of Junior Assistant / Bill Collector in Town Panchayat in Tenkasi District, based on the qualification of the petitioner as per G.O.Ms.No.206 Municipal Administration and Water Supply Department, dated 02.11.1995, in the light of the orders passed in the Writ Appeals in W.A.Nos.778 and 779 of 2017 dated 03.07.2018 with retrospective effect from the date of initial appointment as Sanitary Worker with all consequential and other attendant benefits including arrears of salary and further promotion of the petitioner, by considering the representation submitted by the petitioner dated 10.02.2021, within the time frame that may be fixed by this Court.

2. The petitioner was appointed as Sanitary Worker in Town Panchayat, Melagaram on compassionate grounds. The father of the writ petitioner was an employee as Sweeper in Town Panchayat and on account of his sudden death on 07.03.2001, the petitioner was appointed on compassionate grounds.

3. The petitioner states that he has completed Higher Secondary (+2) and Diploma in Electrical and Electronics Engineering and therefore, he made an application to appoint him as Junior Assistant. The said application was not considered by the Competent Authorities. Thus, the petitioner is constrained to move the present Writ Petition.

4. The learned counsel appearing for the petitioner made a submission that the Government Order passed in G.O.Ms.No.206 dated 02.11.1995 is only indicative and not exhaustive. Therefore, the petitioner is to be given to the post of Junior Assistant.

5. Scheme of compassionate appointment is a concession and cannot be claimed as absolute right. Scheme being violative of Articles 14 and 16 of the Constitution of India, the appointment on compassionate grounds itself is to be restricted only to the eligible candidates strictly in accordance with the terms and conditions of the scheme. The scheme has been implemented in order to mitigate the circumstances arising on account of sudden death of an employee and not to provide one appointment to the family of the deceased employee. Therefore, the penurious circumstances aroused on account of sudden death is to be established with reference to the scheme of compassionate appointment. Thus, the scheme being a concession, the petitioner



cannot seek any further promotion or further appointment to the higher post merely on the ground that he is possessing the requisite qualification for higher posts.

6. If at all the petitioner is possessing higher qualification, he has to participate in the process of open competition and secure appointment. Contrarily, he cannot seek further appointment on compassionate grounds as his initial appointment itself was on compassionate grounds. The scheme for compassionate appointment also contemplates that the concession of appointment on compassionate grounds are given only to Group-III and IV posts and in respect of higher posts, it is left open to the persons to participate in the open competitive process and secure employment.

7. In view of the facts and circumstances, the application submitted by the writ petitioner seeking further appointment to the higher posts on compassionate ground cannot be considered as his initial appointment itself was on compassionate grounds. If at all the petitioner has acquired higher qualification, it is left open to him to participate in the open competitive examination and secure higher posts, but not through another method. In view of the principles laid down in the matter of providing compassionate appointment to the higher posts, the petitioner is not entitled for any relief. Consequently, the Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

ssb

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Municipal Administration & Water Supply Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Director of Town Panchayats,
Directorate of Town Panchayats,
MRC Nagar, Rajah Annamalaipuram,
Chennai-600 028.



3.The District Collector,
Tenkasi District,
Tenkasi.

4.The Assistant Director of Town Panchayats,
Tirunelveli Zone,
Tirunelveli.

+1 CC to M/s.SPL.GP (SR-16694[F] dated 05/04/2022)

+1 CC to M/s.F.DEEPAAK, Advocate (SR-10744[F] dated 09/03/2022)

W.P. (MD) No.17133 of 2021

04.04.2022

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