



W.P.Nos.11501 of 2013
and 28876 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 21.11.2022

ORDERS DELIVERED ON : 10.03.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.Nos.11501 of 2013
and 28876 of 2015

S.Kalavathy

..Petitioner in both WPs.

Vs.

1.The Commissioner

Coimbatore City Municipal Corporation

Coimbatore-641 001

2.R.Karuppusami

WP.11501/2013

..Respondents in

1.The Secretary to Government

Municipal Administration and Water Supply Department

Secretariat, Chennai-600 009



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2.The Director of Municipal Administration
Chepauk, Chennai-600 005

3.The Commissioner, Coimbatore City Municipal Corporation,
Coimbatore 641 001.

4.R.Karuppusami
WP.No.28876/2015

..Respondents in

Prayer in WP.No.11501 of 2013 : Writ petition filed under Article 226 of Constitution of India, praying to issue a writ of certiorari calling for the records relating to the impugned order of the 1st respondent issued in Na.Ka.No.1324/2013/MC1 dated 05.04.2013 and quash the same.

Prayer in WP.No.28876 of 2015 : Writ petition filed under Article 226 of Constitution of India, praying to issue a writ of certiorari calling for the records relating to the impugned order of the 1st respondent issued in G.O.(D).NO.349 MAWS Department dated 04.08.2009 and quash the same.

For Petitioner : Mr.T.Ranganathan

For respondents : Mr.K.Magesh, Standing counsel for R1

Mr.P.Gopiraja for R2.

in WP.No.11501/2013



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Ms.R.L.Karthika, Govt.Advocate for R1 and R2

Mr.P.Gopiraja for R 4 in WP.No.28876 of 2015.

COMMON ORDER

WP.No.28876 of 2015 has been filed challenging the impugned Government Order in G.O.(D).No.349 MAWS Department dated 04.08.2009 and the petitioner seeks to quash the same. The said Government Order was issued with regard to approval of the rules of appointment of the petitioner along with other Assistant Engineers, whereby, the petitioner was placed at Sl.No.24 in the seniority list which was revised as per the resolution dated 23.10.2007 in the Corporation Council, Coimbatore.

W.P.No.11501 of 2013 has been filed seeking to quash the impugned order of the 1st respondent/The Commissioner, Coimbatore Municipality, dated 05.04.2013, whereby, the combined seniority list of Assistant Engineers/Junior Engineers as on 01.01.2013, was issued.



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2. It is averred in the W.P.No.28876/2015 that the petitioner was placed in Sl.No.5 in the Assistant Engineer category on 01.10.1996. Out of the sanctioned strength of 36 posts of A.E., the quota for Assistant Engineer by following 3:1 ratio, 27 posts was earmarked to the Assistant Engineer category, 18% is reserved for Scheduled Castes. But the Corporation taking SC backlog vacancies, put the seniority list whereby 12 names were found in the seniority list in the communal category but the petitioner's name was not found in the said list. The petitioner further submits that the Government Orders whereby the seniority has been changed has not been communicated to the petitioner and therefore, she could not challenge the same in the manner known to law. However, thereafter, coming to know the G.O.(D).No.349 MAWS Department dated 04.08.2009 wherein she has been fixed as Sl.No.24 in the seniority list, petitioner approached this court seeking to quash the said G.O.



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3. The contention of the learned counsel for the petitioner is that as per Rule 22 of the Tamil Nadu State and Subordinate Service Rules, any backlog vacancy shall be carried over only for 4 years and thereafter, it will lapse. But the 3rd respondent Coimbatore Municipality, for the backlog vacancies in the year 2001, fixed the seniority list in 2007 and after confirming the seniority list, not communicated the same to the petitioner.

4. It is further contended that the order of the 1st respondent in G.O.(D)No.349 MAWS Department dated 04.08.2009 has not been communicated to the petitioner and thereby she was prevented from getting the statutory relief. The learned counsel also submitted that impugned order and the proceedings issued by the 3rd respondent are passed without following the principles of natural justice and therefore, the said orders are liable to be quashed.



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5. In W.P.No.11501 of 2013, the combined seniority list issued by the Commissioner, Coimbatore Corporation dated 05.04.2013 as on 01.01.2013, was challenged on the ground that seniority list prepared and published by the 1st respondent/Commissioner on 22.12.2006 inviting the objections if any from the individuals has been served on the 2nd respondent/R.Karuppusami. But he has not recorded any objection and consequently the said seniority list has been confirmed vide proceedings of the 1st respondent dated 04.07.2007 and therefore, when the settled order of seniority is prevailing, revising the same without any notice to the petitioner and too after a period of 12 years is contrary to the principles of natural justice.

6. On the other hand 3rd respondent/Commissioner, Coimbatore City Municipal Corporation, filed counter affidavit and submitted that the Government has instructed vide letter No.8122/C4/06-6 dated 16.08.2007 that the backlog vacancies in respect of scheduled caste and scheduled tribe



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communities should be given priority by making adjustments in the appointment already made. Since there were backlog vacancies for scheduled tribe in the Corporation, the subject was placed before the Municipal Corporation council for consideration of the Government Letter. The subject was considered by the Corporation council in the meeting held on 23.10.2007 and the resolution was passed and accordingly the post of the 4th respondent viz., R.Karuppusami was adjusted as against scheduled tribe backlog vacancy and the 4th respondent was assigned Serial No.1 and the petitioner was assigned Serial No.4 in the revised seniority list.

7. In the counter affidavit, it is further submitted that the above resolution dated 23.10.2007 was forwarded to the Government and the Government vide G.O.(D).No.349 Municipal Administration and Water Supply Department dated 04.08.2009 granted approval for relaxation of rules for appointment of the petitioner along with 4th respondent and 2 others in direct recruitment vacancy of the post of Assistant Engineer and



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the 4th respondent was placed at Sl.No.21 and the petitioner was placed at Sl.No.24. The combined seniority list issued by the respondent dated 05.04.2013 is in accordance with the seniority which was approved by the Municipal Corporation council resolution dated 23.10.2007 which was approved by the Government vide G.O.Ms.No.349 dated 04.08.2009.

8. Heard both sides and perused the records carefully.

9. It is borne out by records that by proceedings dated 02.03.2016, both the petitioner and the 2nd respondent in W.P.No.11501 of 2013 who was placed above the seniority of the petitioner got promotion as Executive Engineer.

10. Admittedly, the seniority list was already finalized as on 01.12.2006. But without reference to the same, the impugned proceedings



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are issued citing the Government Orders of the year 1996 and 1997. It is clear that the impugned proceedings is an attempt to unsettle the earlier settled seniority.

11. As per Rule 22 of the Tamil Nadu State and Subordinate Service Rules, “while in respect of vacancies for the year of recruitment, the normal procedure relating to the calculation of vacancies reserved for the candidates belonging to such communities as well as the instructions that not more than fifty percent of the vacancies shall be reserved for scheduled castes, scheduled tribe communities and physically handicapped shall apply, selection for appointment for all the “backlog” vacancies reserved for such communities shall be made by the candidates belonging to such communities without any restriction as they belong to distinct group of “backlog” vacancies. The selection for appointment in the next direct recruitment shall be made first for the “backlog” vacancies and then the normal rotation shall be followed.”



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12. Seniority once settled is decisive in the upward march in one's chosen work or calling and gives certainty and assurance and boosts the morale to do quality work. It instills confidence, spreads harmony and commands respect among colleagues which is a paramount factor for good and sound administration. If the settled seniority at the instance of one's junior in service is unsettled, it may bring so many contradictory and confusing results.

13. In the light above position of law, the respondent-Corporation is directed to fix the seniority of the petitioner as finalized on 01.12.2006 and grant retrospective promotion and other benefits eligible to the petitioner. Such exercise shall be carried out by the respondent-Corporation within a period of eight weeks from the date of receipt of a copy of this order.



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14. In the result, this writ petition is partly allowed on the above terms. No costs.

10.03.2023

Index:Yes/No

Neutral citation:Yes/No

Speaking Order: Yes/No

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To

1.The Commissioner

Coimbatore City Municipal Corporation

Coimbatore-641 001

2.The Secretary to Government

Municipal Administration and Water Supply Department

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