



WEB COPY



W.P.No.18892 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

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THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.P.No. 18892 of 2016 and
W.M.P.No.27706 of 2016

1. T.V.Pallanee(Deceased)
2. Pushpa Pallanee
3. V.P.Jaghan Kamal
4. Aruna Lalith Pallanee
(P2 to P4 substituted as Lrs of deceased sole petitioner
vide order dated 16.02.2022 made in W.M.P.No.24696/2021 in
W.P.No.18892 of 2016) ... Petitioner

Versus

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

2. The Commissioner of Municipal Administration,
Ezhilagam Annexe,
Chepauk, Chennai-600 009.

3. The Secretary to Government
P&AR Department, Secretariat,
Fort St.George,
Chennai-600 009.

4. The Secretary
Tamil Nadu Public Service Commission,
Frazer Bridge Road, V.O.C Nagar,
Park Town, Chennai-600 003. ... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, prays to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in G.O.Ms.No.36, Municipal Administration & Water Supply (ME-12) Department dated 16.02.2016, quash the same in so far it fails to include the name of the applicant in the panel year of 1994-95 for the post of Municipal Commissioner Grade I.

For Petitioner : Mr.N.Balamuralikrishnan

For Respondents :Mr.D.Gopal
Government Advocate for R1 to R3
Ms.G.Hema for R4

ORDER

This writ petition has been filed to call for the records of the 1st respondent in G.O.Ms.No.36, Municipal Administration & Water Supply (ME-12) Department dated 16.02.2016, quash the same in so far it fails to include the name of the applicant in the panel year of 1994-95 for the post of Municipal Commissioner Grade I.

2. At the outset, it is to be noted that the petitioner died and his legal heirs namely petitioners 2 to 4 have been substituted in his place. The case of the writ petitioners is that the petitioner was appointed as Municipal Commissioner Grade III on 03.05.1990 and in G.O.No.4D dated 26.08.1997, the inter-se-seniority of Municipal Commissioner Grade III appointed



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between 1989-96 was fixed in which the petitioner's name finds place in SI.No.1. The petitioner completed his probation on 27.05.1992 and subsequently, he retired from service on 30.06.2001 in the cadre of Municipal Commissioner Grade III. The grievance of the petitioner is that even though he was found to be eligible for promotion to the post of Municipal Commissioner Grade I and the authorities concerned also found that there were no disciplinary proceedings and charges as against the writ petitioner and despite the same, the petitioner's name was not included in the panel for the year 1994-95 as well as 1995-96 and also the persons, who were juniors to the writ petitioner were promoted for the said post. According to the petitioner, no justifiable reasons have also been given for not promoting the writ petitioner even though he was found to be fit for promotion and despite being figured as the first person in the seniority list also. It is the further case of the petitioner that Grade II and Grade III were merged into Grade II and the petitioner was considered as Municipal Commissioner Grade II with effect from 15.03.1993 due to the merger. The petitioner would be entitled for promotion and the action of the respondents was therefore wholly unjustified. Under such circumstances, the petitioner had challenged the impugned order in G.O.Ms.No.36 dated 16.02.2016.



3. The 1st and 2nd respondent had filed a counter which is also adopted by the 4th respondent/the Secretary, Tamil Nadu Public Service Commission.

4. The learned Counsel for the 1st and 2nd respondents invited the attention of this Court to paragraph 11 in the counter affidavit which states that the petitioner was eligible for promotion to the post of Municipal Commissioner Grade I only for the year 1995-96. However, as per new service rules, he was eligible for promotion during the year 1994-95 and also there is no explanation in the counter affidavit as to on what ground the petitioner, despite being found fit for promotion was not given the same. The fact that the petitioner also died pending the writ petition is taken note of and his legal heirs are continuing the litigation only to become entitled for monetary and terminal benefits if they succeed in the writ petition.

5. Heard, Mr.N.Balamuralikrishnan, learned counsel for the petitioners and the learned Government Advocate for the respondents 1 to 3 and learned counsel for the 4th respondent.

6. Considering the rival submissions made on either side, this Court finds that the impugned order is liable to be quashed for the simple reason



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that despite the petitioner having been found eligible and fit for promotion and figuring as the senior most candidate for the year 1994-95, absolutely no reasons have been assigned for omitting his name and promoting the persons who were junior to him. The absence of reason is also not explained and remains unanswered in the writ petition. In such view of the matter, this Court is inclined to allow the writ petition entitling the petitioners 2 to 4 to all monetary benefits on par with the juniors as the petitioner would have entitled to, if he was alive and in service. The necessary monetary benefits payable shall be settled within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

08.06.2023

Index : Yes / No
Internet: Yes
Speaking/non speaking order
nr



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To

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Municipal Administration and Water Supply Department ,
Secretariat, For St.George,
Chennai-600 009.
- 2.The Commissioner of Municipal Administration,
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P.B.BALAJI, J.,

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