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W.A.No.3510 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.12.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.3510 of 2023
and C.M.P.No.28726 of 2023

1.The Director of Rural Development and
Panchayat Raj, Panagal Buildings,
Saidapet, Chennai – 15.

2.The Director of Town Panchayats,
Kuralagam, Chennai – 108.

3.The District Collector,
Collectorate, Salem District.

4.The Assistant Director,
Town Panchayat Department,
Salem – 636 001.

.. Appellants

Vs.

Y.Panneerselvam,
Water Supply Cleaner,
Kommakadu Village,
Assamboor Post,
Yercaud Taluk, Salem District.

.. Respondent



W.A.No.3510 of 2023

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 15.06.2022 passed in W.P.No.14499 of 2014 on the file of this Court.

For Appellants : Mr.S.Silambannan
Additional Advocate General
assisted by Mrs.S.Anitha
Special Government Pleader

JUDGMENT

[Judgment of the court was delivered by R.MAHADEVAN, J.]

This writ appeal has been filed against the order passed by the learned Judge in W.P.No.14499 of 2014 on 15.06.2022.

2.The facts leading to the filing of this writ appeal, according to the appellant, are that the respondent was initially appointed as Sanitary Worker in regular vacancy in erstwhile Yercaud Town Panchayat and his service was regularized vide proceedings dated 30.04.1992. Thereafter, pursuant to G.O.Ms.No.217, Municipal Administration and Water Supply Department, dated 28.08.1997, the Government had converted Yercaud Town Panchayat as Yercaud Panchayat Union with effect from 04.08.1997 and the



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respondent was accommodated in the re-designated post of Water Supply Cleaner in Yercaud Town Panchayat, which post was not available in any of the Panchayat Unions governed by the Rural Development and Panchayat Raj Department. While that being so, the respondent requested the first appellant to transfer and appoint him in the post of Office Assistant by way of conversion from the post of Water Supply Cleaner. However, the first appellant rejected the said request vide Roc.No.14823/2014/E2 dated 28.03.2014, challenging which, the respondent filed W.P.No.14499 of 2014. By the order impugned herein, the learned Judge disposed of the said writ petition with the following observations and directions:

"8. In the present case, avenues are available. The petitioner is fully qualified for the post of Office Assistant and Junior Assistant. While so, the third respondent would have taken action to post the petitioner as office Assistant in anyone of the Panchayat Union and thereafter, grant promotion as per the rules in force or initiate action to include the post of Water Supply Cleaner, which is equivalent to the post of Office Assistant as feeder category for promotion to higher post. Either of the action ought to have been taken by the third respondent / District Collector, but the petitioner is allowed to stagnate in the single post for several years.

9. In view of the facts and circumstances, the reason stated in the order impugned that the post of Water Supply Cleaner is not a feeder category is correct in accordance with the rules. The respondents ought to have initiated steps to transfer the petitioner to the post of Office Assistant and thereafter, consider him for promotion.

10. Accordingly, the respondents are directed to consider the case of the petitioner for posting him as Office Assistant, which is equivalent to the



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post of Water Supply Cleaner and thereafter, consider him for further promotion in accordance with the rules in force and by affording an opportunity to all eligible persons, who are all similarly placed."

Aggrieved by the aforesaid order of the learned Judge, the present appeal has been preferred by the appellant authorities.

3.The learned Additional Advocate General appearing for the appellants submitted that the respondent ought to be appointed as Office Assistant by transfer of service from Water Supply Cleaner Post in newly formed Yercaud Panchayat Union only and not in any other panchayat unions in Salem District; and that, the sanctioned Office Assistant post in Yercaud Panchayat Union is only four, which was already occupied and there was no vacancy to accommodate the respondent as Office Assistant by transfer of service, even though he is eligible to be appointed as such. It is further submitted that as per the entries found in the service register of the respondent, he cannot be promoted further to the post of Junior Assistant, since he did not possess the required minimum General Educational Qualification (pass in SSLC) and hence, he can only serve in the basic service posts till his retirement. Considering all these aspects and existing



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service rules in force, the first appellant rejected his claim. However, the learned Judge erred in disposing of the writ petition considering the claim of the respondent favourably, by the order impugned herein. Stating so, the learned Additional Advocate General prayed to allow this writ appeal by setting aside the order of the learned Judge.

4. Heard the submissions made on the side of the appellants and also perused the documents enclosed in the typed set of papers.

5. It transpires from the order impugned herein that taking note of the admitted position that the post of Water Supply Cleaner is equivalent to the post of Office Assistant, the learned Judge has observed that mere non-inclusion of the post of Water Supply Cleaner as feeder category for promotion to the post of Office Assistant, the opportunity of an employee by posting him as Office Assistant and thereafter, promote him as per rules, need not be denied unnecessarily. Having observed so, the learned Judge has directed the appellants to consider the case of the respondent for posting him as Office Assistant and thereafter, consider him for further promotion in



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accordance with the rules in force and by affording an opportunity to all eligible persons, who are all similarly placed. In the opinion of this Court, such a direction issued by the learned Judge to the appellants to consider the claim of the respondent is purely on merits and in accordance with the rules in force, that too, after affording an opportunity to all the eligible candidates, who are similarly placed. Therefore, the order of the learned Judge need not be interfered with.

6. With the aforesaid clarification, this writ appeal stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]
20.12.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
nsd

To

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