



WEB COPY

W.P.No.40724 of 2016



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 28.08.2023

Coram:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.40724 of 2016
and WMP No.34716 of 2016

K.Kuppusamy

... Petitioner

Vs.

1.The Secretary to Government,
Department of Municipal Administration and
Water Supply, Secretariat,
Chennai – 600 009.

2.The Commissioner,
Coimbatore Corporation,
Town Hall,
Coimbatore – 641 001.

.... Respondents

Prayer: PETITION filed under Article 226 of the Constitution of India
praying for the issuance of Writ of Mandamus directing the 1st respondent to
provide Driver Post to the petitioner in the 2nd respondent Corporation.

For Petitioner : Mr.P.Saravanan

For Respondents : Mr.K.Surendharan
Additional Government Pleader – R1
Mr.K.Magesh– R2



ORDER

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This Writ Petition has been filed in the nature of a mandamus seeking a direction, though it is stated to the first respondent in the Writ Petition, actually the second respondent/Commissioner, Coimbatore Corporation to appoint the petitioner as a Driver in the respondents/Coimbatore Corporation.

2. The father of the petitioner, K.Karuppusamy was working as Sanitary Worker in the second respondent Corporation and died on 27.01.2015 while in service. The petitioner was, aged 27 years at that time and had completed his 10th standard and also had valid driving licence for driving heavy motor vehicles. He then applied seeking compassionate appointment in the Coimbatore Corporation. He was finally appointed on 25.09.2015 as Sanitary Worker.

3. It is contended on behalf of the respondents that the petitioner had himself given a letter indicating preference to be appointed as Sanitary Worker and is now working as Sanitary Worker in the Coimbatore Corporation. It is however contended by the Writ Petitioner that since he had the qualification to be appointed as a Driver and there were vacancies available on that particular date, the respondents should have appointed him as a Driver irrespective of the fact that he had given a letter consenting to be appointed as a Sanitary Worker.



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4. The qualifications in accordance with G.O.Ms.No.237, MAWS dated 26.09.1996 for Tamil Nadu Municipal Corporation General Subordinate Service Rules, 1996 (in short '1996 Rules') Clause 3 Group IV Category I Drivers to be appointed on direct recruitment were that the prospective candidate should have passed 10th Standard, should possess current driving licence for driving heavy transport vehicles and must have experience of not less than 5 years.

5. Contending that on the date of appointment, i.e., 25.09.2015, the petitioner did not have 5 years experience, since he had obtained his heavy vehicle driving licence only on 23.06.2015, the respondents had appointed him as sanitary worker. It is also contended that there were only three sanctioned posts available as per G.O.Ms.No.152 dated 20.10.2022 and hence there were no vacancies available and the petitioner could not be accommodated as Driver.

6. Learned counsel for the petitioner however widened the scope of the argument by producing on record another document in G.O.Ms.No.55 dated 13.02.2014, whereby it is contended that the total number of sanctioned posts for Drivers in Coimbatore Corporation was 34 and only 12 had been filled up and it is therefore stated that on the date of appointment, there were vacancies in which the petitioner could have been appointed as Driver.



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7. It is also contended on behalf of the petitioner that G.O.Ms.No.237, which is relied upon by the respondents, had been subsequently re-visited and the 1996 Rules have been amended and published in the Government Gazette with effect from 01.08.2000, wherein the qualification for Driver by direct recruitment was restricted to a pass in 10th standard and possession of driving licence to drive heavy motor vehicles. Further the qualification of 5 years experience had not been indicated in the amended Rules.

8. It is therefore contended by the learned counsel for the petitioner that the petitioner should have been appointed as Driver instead of Sanitary Worker, since the petitioner had the requisite qualification.

9. These are issues that the respondents should address and should provide answers to the petitioner herein. They should consider whether G.O.No.237 dated 26.09.1996 had been overruled by subsequent Rules with effect from 01.08.2000 whereby the qualification of 5 years experience to the post of Driver had been waived.

10. The second aspect of the matter is to the number of posts which were vacant on the date on which the petitioner was considered for employment, whether it was 3, as contended by the respondents or 34 as contended by the petitioner.

11. These are aspects which the respondents alone can examine and



they must do so by issuing a reply to the representation given by the petitioner herein on 07.01.2016. The respondents may issue notice to the petitioner for his personal appearance, hear him, examine the certificates he possess, examine the vacancy position and also examine the required experience and whether it is requisite, and thereafter pass necessary orders within a period of twelve (12) weeks from the date of receipt of a copy of this order.

12. This Writ Petition is disposed of. No costs. Connected Miscellaneous Petition is closed.

28.08.2023

Index: Yes/No
Speaking/Non-speaking order
Neutral citation: Yes/No
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To

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Chennai – 600 009.

2.The Commissioner,
Coimbatore Corporation,
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C.V.KARTHIKEYAN,J.

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