



WEB COPY



WP.No.19542 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.No.19542 of 2023

S.Lokesh

...Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by the Secretary to Government,
Municipal Administration and Water supply Department,
Fort St. George, Chennai 9.
2. The Director of Municipal Administration,
No.75, Urban Administrative Building,
Santhom High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai 28.
3. The Commissioner,
Corporation of Tiruppur,
Tiruppur 4.
4. The Assistant Commissioner,
Corporation of Tiruppur,
Tiruppur 4.

...Respondents

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the third respondent to appoint the petitioner, who is having requisite qualification for the existing vacancy raised from 30.06.2022 as Assistant Engineer in the office of the 3rd respondent as per Tamil Nadu Municipal Corporation Engineering and Water Supply Service Rules, 1996.



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For Petitioner : Mr.V.Karthikeyan
for Mr.K.Anandan

For Respondents

for RR1 & 2 : Mr.P.Baladhandayutham, Spl.G.P.
for RR3 & 4 : Mr.D.R.Arunkumar

ORDER

The Writ Petition has been filed seeking for a direction to the third respondent to appoint the petitioner, who is having requisite qualification, as Assistant Engineer in the office of the third respondent as per Tamil Nadu Municipal Corporation Engineering and Water Supply Service Rules, 1996.

2. It is the case of the petitioner that he applied for the post of Assistant Engineer in the Corporation based on the notification published in a newspaper on 27.11.2019. He is having the requisite qualification. However without following the notification which is meant for direct posts, the same has been filled by way of promotion.



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Challenging the same, he has filed Writ Petition in WP.No.9606 of 2020.

This Court disposed of the above Writ Petition with a direction to consider the representation of the petitioner. Subsequently, the representation of the petitioner was considered and rejected. Challenging the same, the present Writ Petition has been filed.

3. On a perusal of the notification, it is very clear that applications were called for filling up of vacancies on direct recruitment, but no interview whatsoever was conducted to fill the vacancies through direct recruitment in the ratio of 3:1, however, the same was filled by promotion.

4. A counter is filed by the third respondent to the effect that all the Assistant Engineers post notified are priority based. Since the petitioner has not come under any of the priority category, his application has not been considered. Therefore, he is not eligible.

5. The very counter and the impugned order, itself are contrary to each other. In the impugned order, it is the specific stand of the Commissioner that no interview was conducted on the basis of the



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notification issued in this regard. Whereas in the counter, it is the stand that the petitioner is not entitled as he is not fit in any of the priority category.

6. It is clear that inconsistent stand was taken, further while filling of the 3 posts, the Rules have not been followed and appointments were made on the whims and fancies of the third respondent. However, the present Writ Petition is not challenging the appointment, which is filed only for a Mandamus and therefore, this Court is of the view that as the challenge was already made in another Writ Petition, which was disposed of, now the petitioner cannot challenge the appointment order.

7. It is also brought to the notice of this Court that additional posts have been sanctioned vide G.O.Ms.No.152, dated 20.10.2022. In view of the matter, it is made clear that while calling for applications or issuing new notifications, equal opportunity as per the constitutional mandate has to be followed and all eligible candidates shall be allowed to participate in the process of selection. The respondent shall fill up the post only according to the Rules by proper advertisement.



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8. With the above observations, the Writ Petition is disposed

of. No costs.

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Index : Yes/No
pvs

To

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