



WP NO.14844 OF 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2023

CORAM:

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.NO.14844 OF 2017
AND WMP NO.16090 OF 2017

P.Thangadurai ... Petitioner

Vs.

1.The Director of Municipal Administration
Chepauk, Chennai – 600 005.

2.The Commissioner
Rasipuram Municipality
Rasipuram, Namakkal District.

3.P.Radha ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the first respondent namely the Director of Municipal Administration culminating in Roc.No.38333/2014/K3 dated 11.09.2015, quash the portion of the said order in as much as promoting the third respondent, Ms.P.Radha from the post of Revenue Assistant in Bhavani Municipality to the post of Assistant in the office of the Gobichettipalayam Municipality and also to promote the writ petitioner, P.Thangadurai, from the



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post of Junior Assistant Idappadi Municipality to the post of Assistant with Salem Region / Division from 11.09.2015, the date on which the third respondent was promoted as Assistant with all consequential monetary benefits.

For Petitioner : Ms.Devi
for M/s.V.Raghupathy

For Respondent-1 : Mr.M.Shahjahan
Special Government Pleader

For Respondent-2 : Mr.P.Srinivas

ORDER

The petitioner is aggrieved against promotion of the third respondent from the post of Revenue Assistant in Bhavani Municipality to the post of Assistant in Gobichettypalayam Municipality. Consequently, he seeks for promotion from the post of Junior Assistant, Idappadi Municipality to the post of Assistant, within Salem Region / Division, from the date on which the third respondent was promoted as Assistant.

2. Though initially the respondents 1 and 2 in their counter affidavit dated 03.11.2017 had stated that the petitioner had gone on a request



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transfer and therefore, he was placed in the bottom of the seniority list and that the third respondent's transfer was on administrative grounds, the Director of Municipal Administration, Chennai, has now filed another counter affidavit dated 27.02.2023, whereby, they have retracted the above submissions made in their earlier counter affidavit. As per the present counter affidavit dated 27.02.2023, it is admitted that the seniority of the third respondent has been wrongly fixed and requires to be revised. The relevant portion of the counter affidavit dated 27.02.2023, reads as follows:-

“ 4)It is respectfully submitted that the seniority of Thiru P.Thangadurai in Class VII/VIIA Cadre was placed at Sl.No.226 based on his joining dated of Thiruchengode Municipality (Salem Unit) on 20.12.2010 vide this officer Memo Rgc. No.34689/2013/K3, dated 07.02.2014. The 3rd respondent, Tmt.P.Radha was initially appointed as Revenue Assistant (Class VII Cadre) in Ambathur Municipality under Vellore Unit on 19.03.2010 and she was transferred to Bhavani Municipality in Salem Unit on 06.02.2012. Her name was wrongly placed at Sl.No.197



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based on her date of initial appointed on 19.03.2010, instead of considering his joining dated in the transferred Municipality in Salem Unit on 06.02.2012.

5)It is respectfully submitted that the details of a appointment, transfer, seniority and proposed revised seniority are as elucidated in the table below:-

SL.No.	Service Details	P.Thangadurai	P.Radha
1	Date of Joining (Initial post)	22.05.2006 Junior Assistant Thiruvottiyur Municipality (Vellore Unit)	19.03.2010 Revenue Assistant Ambathur Municipality (Vellore Unit)
2	Date of Joining in Salem Unit (by Transfer)	20.12.2010 Junior Assistant Thiruchengode Municipality (Salem Unit)	06.02.2012 Revenue Assistant Bhavani Municipality (Salem Unit)
3	Sl.No. as per Seniority list (As on 01.01.2013)	226 (20.12.2010)	197 (19.03.2010)
4	Seniority to be revised	226 (20.12.2010)	240A (06.02.2012)

6)It is respectfully submitted that the seniority of 3rd respondent Tmt P.Radha's has to be revised and to be placed at Sl.No.240A below of Tmt.D.Jayanthi (Sl.No.240) Junior Assistant, Punjaipuliampatti Municipality and above Thiru



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P.Srinivasan (Sl.No.241) Revenue Assistant, Pallipalayam Municipality based on her joining date (06.02.2012) in Salem Unit.

7)It is respectfully submitted that the seniority of the petitioner will be revised in accordance with his date of joining in Salem Unit (20.12.2010) and consider him for due promotion to Class V Cadre while reaching his turn as per the revised seniority list. “

3. In view of the submissions made by the official respondents herein, the grievance of the petitioner has been considerably met and the respondents 1 and 2 could be directed to pass appropriate orders revising the seniority of the third respondent as well as the petitioner herein with all consequential benefits.

4. In the light of the above findings, the impugned order dated 11.09.2015 passed by the first respondent insofar as it grants promotion to the third respondent herein at Serial No.7 to the post of Assistant in



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Gobichettypalayam Municipality is quashed. There shall be a direction to the respondents 1 and 2 to pass appropriate orders in line with the submissions made in the counter affidavit dated 27.02.2023, as extracted above and thereby pass notional promotion order in favour of the petitioner herein for the posts of Assistant and Revenue Inspector, with effect from the date on which the third respondent was promoted to the post of Assistant i.e., from 11.09.2015 with consequential service and monetary benefits. Such order shall be passed atleast within a period of four weeks from the date of receipt of a copy of this order.

5. The writ petition is allowed on the above terms. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking / Non-speaking order
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M.S.RAMESH, J.

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