



W.A(MD)Nos.110 & 111 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)Nos.110 & 111 of 2023
and
C.M.P(MD)Nos.1456 & 1458 of 2023**

W.A(MD)No.110 of 2023:-

The Commissioner and Special Officer,
Thoothukudi City Municipal Corporation,
Thoothukudi.

... Appellant/Respondent

vs.

E.Gnanasekar

... Respondent/Writ Petitioner

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 07.01.2022 passed in W.P(MD)No.11630 of 2021 on the file of this Court.

For Appellant

: Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.N.Ananda Kumar

For Respondent

: Mr.D.Kirubakaran



W.A(MD)Nos.110 & 111 of 2023

WEB COPY

W.A(MD)No.111 of 2023:-

The Commissioner,
Thoothukudi City Municipal Corporation,
Thoothukudi.

... Appellant/Respondent

vs.

N.Sermakani

... Respondent/Writ Petitioner

PRAYER : Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 07.01.2022 passed in W.P(MD)No.20214 of 2021 on the file of this Court.

For Appellant

: Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.N.Ananda Kumar

For Respondent

: Mr.D.Kirubakaran

COMMON JUDGMENT

[Judgment of the Court was made by D.KRISHNAKUMAR, J.)

By consent of both the parties, the Writ Appeals are taken up for final disposal at the stage of admission itself.



W.A(MD)Nos.110 & 111 of 2023

WEB COPY

2.Challenging the orders passed by the learned Single Judge in W.P(MD)Nos.11630 & 20214 of 2021, dated 07.01.2022, the appellant/respondent has filed the instant Writ Appeals.

3.The learned Additional Advocate General appearing for the appellant/respondent argued that the Writ Court has not taken into consideration the Thoothukudi City Municipal Corporation Act, 2008.

4.The learned Additional Advocate General appearing for the appellant/respondent further submitted that the Writ Court has taken into consideration the fact that as per Rule 4(b) of the Tamil Nadu Municipal Services (Discipline and Appeal) Rules, 1970, the Commissioner/Director of Municipal Administration, Chennai is the competent authority, but as per Rule 4(b) of the Tamil Nadu Municipal General Service Rules, 1970, the Commissioner of Municipality is the appointing authority in respect of Class VII (Junior Assistant) and the Director of Municipal Administration is the appointing authority in respect of Class V (Assistant). Pursuant to the upgradation of the Municipalities into City Municipal Corporations, separate City Municipal Corporation Acts have been enacted and Corporation Service Rules have also been framed thereunder. As per Section 106(2)(c) of



W.A(MD)Nos.110 & 111 of 2023

WEB COPY

1981 Act, which would be applicable to Thoothukudi City Municipal Corporation, as per Section 8(4) of the Thoothukudi City Municipal Corporation Act, 2008, every appointment to any post included in Class III or Class IV shall be made by the Appointments Committee. Therefore, the provisions in the Tamil Nadu Municipal General Service Rules, 1970 or the provisions in the Tamil Nadu Municipal Services (Discipline and Appeal) Rules, 1970, would not be applicable to the employees of Thoothukudi City Municipal Corporation and as such, the Writ Court is not correct in holding that the Commissioner / Director of Municipal Administration, Chennai is the appointing authority for appointment of the respondent/writ petitioner.

5.The learned Additional Advocate General further submitted that as per Rule 4(3) of the Coimbatore Corporation Services (Discipline and Appeal) Rules, 1986, which would be applicable to Thoothukudi City Municipal Corporation, as per Section 8(4) of Thoothukudi City Municipal Corporation Act, the Commissioner of the Corporation is the disciplinary authority as well as the competent authority to impose any of the penalties mentioned in Rule 3 of the abovesaid Rules, upon the respondent/writ petitioner, who is holding a Class-III post.



W.A(MD)Nos.110 & 111 of 2023

WEB COPY

6.The learned Additional Advocate General appearing for the appellant/respondent submitted that the Writ Court allowed the Writ Petitions holding that the Commissioner of Thoothukudi Municipal Corporation has no authority and the Director of the Municipal Administration, Chennai is the competent authority, which according to the appellant, are liable to be set aside.

7.The learned counsel appearing for the respondent/writ petitioner agreed that the Corporation had framed separate rules for the Thoothukudi City Municipal Corporation.

8.Heard the learned counsel appearing on either side and perused the materials available on record.

9.Considering the submissions made on either side, the impugned orders passed by the learned Single Judge are set aside, in the light of the Rule 4(3) of the Coimbatore Corporation Services (Discipline and Appeal), Rules, which is also applicable for the Thoothukudi City Municipal Corporation Act and remanded the matter back to the Writ Court, for passing orders as early as possible.



W.A(MD)Nos.110 & 111 of 2023

WEB COPY

10. Accordingly, these Writ Appeals are allowed. No costs.

Consequently, connected Miscellaneous Petitions are closed.

[D.K.K.,J.] & [L.V.G.,J.]
10.02.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

The Commissioner,
Thoothukudi City Municipal Corporation,
Thoothukudi.



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W.A(MD)Nos.110 & 111 of 2023

D.KRISHNAKUMAR,J.

and

L.VICTORIA GOWRI,J.

ps

**ORDER MADE IN
W.A(MD)Nos.110 & 111 of 2023**

10.02.2023