IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.4896 of 2023
and WMP Nos.4915, 4916and 4917 of 2023

P.Sekar .. Petitioner

Vs.

1.The Commissioner,
Salem City Municipal Corporation,
Salem – 636 001

2. The Commissioner of Municipal Administration,
No.75, Santhome High Road,
MRC Nagar, Raja Annamalaipuram,
Chennai 600 028

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

4. Thiru V Thamizhmani

5.Thiru K Veerakumar .. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of

India, praying for issuance of a Writ of Quo warranto questioning the authority of the 4th and 5th respondents to hold the post of Assistant Revenue Officer, when they are not qualified and eligible to hold the post as per the Tamil Nadu Municipal Corporation and Subordinate Service Rules, 1996 and consequently, direct the 1st respondent to fill up the permanent vacancies in the category of Superintendent / Assistant Revenue Officer in accordance with the Special Rules, within a reasonable period.

For Petitioner	: Mr.T.Ranganathan
For Respondents	: Mrs.N.Devi for R1 Mr.C.Selvaraj, Additional Government Pleader for R3

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O R D E R

This writ petition has been filed questioning the action taken on the part of the Salem City Municipal Corporation by permitting the respondents 4 and 5 to hold the posts of Assistant Revenue Officer without any qualification or eligibility and for a further direction to the 1st respondent to fill up the permanent vacancies in the category of Superintendent / Assistant Revenue Officer in accordance with Tamil Nadu Municipal Corporation and Subordinate Service Rules 1996 (hereinafter referred to as the Rules).

2. The case of the petitioner is that the post of Superintendent is a promotion post and for which the feeder category is the post of Assistant. This post of Superintendent is interchangeable to that of a Assistant Revenue Officer by transfer. Thus, both these posts are equivalent and on the administrative side, the incumbent exercises the powers of superintendent and on the revenue side, he exercises the functions of an Assistant Revenue Officer.

3. The grievance of the petitioner is that the respondents 4 and 5 who are not qualified or eligible to hold the post of Assistant Revenue officer, were made in charge of that post without any authority. The same has been put to question in the present writ petition and the petitioner has also sought for a further direction to the respondents to fill up the permanent vacancies in the post of superintendent.

4. The 1st respondent has filed a counter affidavit. The stand taken by the 1st respondent is extracted hereunder: -

8. With regard to Paragraph no. 6, I submit that as per the rules

and regulations of the Corporation, the Assistant Revenue Officers who were working in the Hasthampatti and Ammapettai ward offices under the authority of the Commissioner, were promoted and retired due to old age, for the benefit of the management, Mr. K. Veerakumar, Revenue Inspector (Special) and Mr.V. Thamizhmani, Revenue Inspector (Special) have been informed and ordered to look after these works on a purely temporary basis as Assistant Revenue Officer. It is informed and ordered to take care of these works under the responsibility of Revenue Officer completely temporarily on shift basis. There is no violation of law in this and it is humbly submitted that at present steps are being taken to promote qualified persons as Superintendent/Assistant Revenue Officer

9. With regard to Paragraph no. 7 and 8, 1 submit that, employees who are working as Revenue Inspector (Special) in this Corporation have been informed to take care of the duties of Assistant Revenue Officer on a temporary basis in addition to the duties of Revenue Inspector (Special) which are already being handled by Petitioner only for the administration.

Also, the post of Revenue Inspector (Special) has been created by the government for the revenue inspector (special) employees who have worked for more than 20 years in the tax collector post or who are above 50 years of age as per the seniority list in the absence of further promotion in the post of tax collector. Revenue Inspector (Special post) is a post created due to the upgradation of tax collector post. Those who are working in this post till retirement will be transferred to this post again as tax collector *post (Down grade). It is informed that the post of promotion has not been created by means of the rules.*

10. With regard to Paragraph no. 9 and 10, I submit that in addition to the tasks already undertaken by the other employees, the commissioner has been informed and ordered to take care of the vacant posts of this corporation as an additional responsibility for the benefit of administration. Due to this, there is no delay in the works. Similarly,

Mr.K. Veerakumar, Revenue Inspector(Special) and Mr. V. Thamizhmani, Revenue Inspector (Special) have been informed and ordered to look after the duties of Assistant Revenue Officer on a temporary basis with the duties already being taken care of by Petitioner in the interest of administration. I humbly submit that it is purely temporary and there are no violations. With regard to Paragraph no. 11. I submit that the Petitioner Mr.P.Sekar, was working as a Junior assistant and typist in the office of the Kondalampatti Ward of Salem Corporation, and his name was at the first place in the seniority list for the promotion of the Assistant, and therefore he was asked to be promoted according to the seniority list in the vacant assistant posts since 2014. He has also filed a Writ Petition, W.P.No. 10239/2015. according to the judgment dated 09.04.2015. The said case was Disposed according to the judgement dated 09.04.2015.

12. With regard to Paragraph no.12, I submit that the Proposals have been sent to the office of the Director of Municipal Administration, Chennai to provide proper No-Objection certificate to Mr. P. Sekar, who is currently working as an assistant, to fill the vacant posts of Superintendent / Assistant Revenue Officer in the Corporation by giving promotion to the qualified employees who are working in the lower post of Assistant.

13. With regard to Paragraph no. 13, I submit that the 3rd and 4th Respondents, Mr. K.Veerakumar, Revenue Inspector (Special) and V. Thamizhmani, Revenue Inspector (Special) have been given the post of Assistant Revenue Officer (In-Charge) on a purely temporary basis under the authority of the Commissioner.

14. With regard to Paragraph no. 14, I submit that the above-mentioned temporary order, which was given to Mr. K. Veerakumar, Revenue Inspector (Special), and Mr. V. Thamizhmani, Revenue Inspector (Special), is unlikely to have an impact on the promotion of Assistants, and the aforementioned parties will not be taken into consideration for the post of Assistant Revenue Officer. They are humbly informed that the next promotion to the post of Revenue Inspector (Special) is not specified in the Service rules.

5. Heard Mr.T.Ranganathan, learned counsel for the petitioner and Mrs.N.Devi, learned counsel for 1st respondent and Mr.C.Selvaraj, learned Additional Government Pleader for 3rd respondent.

6. The learned counsel for the petitioner submitted that during the pendency of this writ petition, the petitioner was promoted to the post of Superintendent vide proceedings dated 22.09.2023. The learned Standing counsel appearing on behalf of the Salem Corporation produced the proceedings dated 22.09.2023 issued by the Commissioner of Salem Corporation. It is seen that apart from the petitioner, seven others were promoted to the post of Superintendent.

7. The main grievance that has been expressed by the petitioner is that the respondents 4 and 5, who do not have the qualification or eligibility, were given in-charge the post of Assistant Revenue Officer which on the face of it is illegal.

8. Per contra, the learned counsel appearing for Salem Corporation has taken a stand that the respondents 4 and 5 were not promoted and given this post and they were asked to perform the functions of ARO only on a temporary basis till a permanent incumbent takes over the office. It was further stated that the respondents 4 and 5 were not given any special pay or allowance nor were they given promotion and it is only a

temporary arrangement. It is also brought to the notice of this Court that pursuant to the promotion of eight persons to the post of superintendent, they will be in-charge of the post of ARO also, since the person holding the post of Superintendent will be transferred and will hold the post of ARO.

9. The stand taken by the respondents 1 to 3 makes it clear that the respondents 4 and 5 were not given any promotion nor were they given pay or allowance for holding the additional charge of ARO and it was only a temporary arrangement. Even though, it is not desirable to make some one in charge of a post to which he is not entitled or qualified, this arrangement seems to have been made to tied over the prevailing situation. Going by the stand taken by the official respondents, it is quite clear that the respondents 4 and 5, were neither qualified nor were eligible to the post of ARO. That apart they were also not entitled for any pay or allowance to hold the additional post.

10. The petitioner has now been promoted to the post of Superintendent through proceedings dated 29.02.2023. Therefore, the post of ARO can be held only by those eight persons, who have been promoted including the petitioner. This is in view of the fact that the person promoted

as a Superintendent on the administrative side can also be given the charge of ARO by way of transfer from the post of superintendent on the revenue side. Thus, the services of the respondents 4 and 5 will have to come to an end. Infact, the 4th respondent has already been downgraded through proceedings dated 11.01.2024, the 5th respondent also cannot be permitted to hold the position of ARO any more.

11. In this result, this writ petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

16.08.2024

Index : Yes/No
Speaking order:Yes/No
Neutral citation:Yes/No
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To
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Salem City Municipal Corporation,

Salem – 636 001

2. The Commissioner of Municipal Administration,
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MRC Nagar, Raja Annamalaipuram,
Chennai 600 028

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

N.ANAND VENKATESH, J

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