



Writ Petition No.6646 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.6646 of 2023

and

W.M.P.No.6714 of 2023

S.K.V.Jayanthi
W/o.Sivakumar

... Petitioner

Vs.

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

2.The Commissioner,
Erode Corporation,
Erode.

3.S.Vasanthi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records of the second respondent relating to the order in Na.Ka.No.C1/1653/2016 dated 04.05.2018 publishing the temporary seniority list for the year 2018-2019 in Na.Ka.No.C1/1653/2018 dated 12.04.2018 the post of Assistant cum Accountant in the Erode Corporation and the consequential proceedings of the second respondent publishing the final seniority list in Na.Ka.No.C1.1653/2018 dated 21.05.2018 rejecting the objection of the petitioner against the said



Writ Petition No.6646 of 2023

seniority list for the year 2018-2019 and quash the same and consequently, direct the second respondent to prepare the seniority list in the post of Assistant cum Accountant in the Erode Corporation by directing following G.O.Ms.No.56, Municipal Administration and Water Supply Department, dated 01.04.2008 by placing the individuals who have been absorbed into the Corporation after 01.04.2008 at the bottom of the list in the post of Assistant cum Accountant by placing S.Vasanthi the third respondent at the bottom of the category in the post of Assistant cum Accountant.

For Petitioner : Mr.N.Chandrasekar

For Respondents : Mr.C.Selvaraj,
Additional Government Pleader [R1]
Mr.M.Rajamathivanan,
Standing Counsel [R2]
Mr.D.Selvaraju [R3]

ORDER

This writ petition has been filed challenging the final seniority list for the year 2018-19 published by the second respondent dated 21.05.2018 to the post of Assistant cum Accountant and consequently, direct the second respondent to prepare the seniority list for the post of Assistant cum Accountant in the Erode Corporation by following G.O.Ms.No.56, Municipal Administration and Water Supply Department, dated 01.04.2008 by placing the individuals who have been absorbed into



Writ Petition No.6646 of 2023

the Corporation after 01.04.2008 at the bottom of the list by placing

S.Vasanthi, the third respondent, at the bottom.

2. The case of the petitioner is that the petitioner was originally appointed as a Junior Assistant/Typist in Sivagangai Municipality with effect from 14.01.1992. Subsequently, the petitioner was transferred to Erode Municipality with effect from 04.06.2002. The Erode Municipality was upgraded as Municipal Corporation by virtue of G.O.Ms.No.7, dated 17.11.2007 with effect from 01.01.2008. G.O.Ms.No.56, dated 01.04.2008, was issued by the Government for the purpose of fixation of seniority among various persons working in the Erode Municipality as well as the other municipalities, which also got merged with the Erode Municipality.

3. The subsequent Government Order was issued in G.O.Ms.No.206, dated 20.12.2008 laying down the cadre strength, avenue for promotion, creation of posts *etc.* Service rules were framed in G.O.Ms.No.237, dated 26.09.1996.



4. The further case of the petitioner is that in the year 2018, the respondents issued the seniority list for the post of Assistant cum Accountant and in this list, the third respondent was placed above the petitioner. Even though objections were given, the same was not considered. It is under these circumstances, the present writ petition has been filed before this Court.

5. Counter affidavits have been filed by respondents 2 and 3. They have taken a preliminary objection on the ground that the writ petition itself has been filed with an enormous delay questioning the seniority list of the year 2018. They have taken a further stand that the petitioner is now trying to take advantage of the order passed in a writ petition filed by one G.Gunasundaram in W.P.No.28182 of 2016, dated 08.02.2023. They have also taken a stand that the third respondent subsequently got two promotions. One to the post of Superintendent on 19.09.2016 and thereafter, to the post of Accounts Officer on 28.12.2021. Accordingly, they have sought for dismissal of the writ petition.

6. Heard Mr.N.Chandrasekar, learned counsel for petitioner, Mr.C.Selvaraj, learned Additional Government Pleader appearing for



Writ Petition No.6646 of 2023

first respondent, Mr.M.Rajamathivanan, learned Standing Counsel appearing for second respondent and Mr.D.Selvaraju, learned counsel appearing for third respondent.

7. In the considered view of this Court, the petitioner is a fence sitter, who was waiting for the result of a writ petition that was filed by one G.Gunasundaram in W.P.No.28182 of 2016. This writ petition was allowed on 08.02.2023. Taking advantage of the same, the petitioner has filed the present writ petition on 20.02.2023. When it comes to questioning the seniority list, the challenge has to be made then and there since the interference to that seniority list after a long lapse of time has a cascading effect. In service jurisprudence, even when there is a right, such a right has to be exercised with alacrity and if the same is not done, the person is bound to lose that right. In the case in hand, the petitioner has questioned the final seniority list of the year 2018 in the year 2023. After that seniority list was published, the private respondent has achieved two promotions. At this length of time, if the seniority list is interfered, it will dislodge the entire seniority that has already become final long back.



WEB COPY

8. The petitioner is also a fence sitter, who was waiting for the result in the other writ petition, which was filed in the year 2016. Taking advantage of the order passed in that writ petition, the petitioner has chosen to file the present writ petition. This is yet another ground on which the present writ petition is liable to be dismissed.

9. Apart from the above, the service details of the petitioner and the third respondent is tabulated hereunder:

Tmt.S.K.V.Jayanthi D.O.B - 20.05.1973

S.No.	Post Name	Date of Joining	Place
1.	Junior Assistant	14.01.1992	Sivakangai Municipality
2.	Junior Assistant	17.06.2002	Erode Municipality
3.	Assistant cum Accountant	29.01.2010	Erode City Municipal Corporation
4.	Superintendent	19.09.2023	Erode City Municipal Corporation
			Charges under Rule 8(2) of the Coimbatore Corporation (Discipline and Appellate) Rules, 1986 . Date. 01.03.2016 - Final Punishment - Censure 19.02.2018 Appointment Committee



Writ Petition No.6646 of 2023

Tmt.S.Vasanthi D.O.B - 14.04.1967

S.No.	Post Name	Date of Joining	Place
1.	Junior Assistant	02.09.1994	Mettur Municipality
2.	Assistant	19.10.2007	Mettur Municipality
3.	Head Clerk	15.12.2010	Kasipalayam Municipality
4.	Assistant cum Accountant	23.04.2013	Absorbed in to Erode City Municipal Corporation service
5.	Superintendent	20.09.2016	Erode City Municipal Corporation
6.	Assistant Revenue Officer	04.02.2019	Erode City Municipal Corporation
7.	Accounts Officer	29.12.2021	Erode City Municipal Corporation

10. It is clear from the above service details that there is no apparent illegality in placing the third respondent above the petitioner in the seniority list.

In the light of the above discussion, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26.09.2024

Neutral Citation: Yes/No

Index: yes/no

Speaking Order/Non-Speaking Order
gm



WEB COPY



Writ Petition No.6646 of 2023



WEB COPY



Writ Petition No.6646 of 2023

N.ANAND VENKATESH, J

gm

To

- 1.The Director of Municipal Administration,
Ezhilagam, Chepauk,
Chennai - 600 005.
- 2.The Commissioner,
Erode Corporation,
Erode.

Writ Petition No.6646 of 2023

26.09.2024