



W.P.No.8355 of 2024

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2024

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.8355 of 2024

and

W.M.P.Nos.9303,9304 and 9305 of 2024

N. Mathyan

...Petitioner

Vs

1. The Commissioner,
Hosur City Municipal Corporation,
Krishnagiri District.

2. The Director 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,
Fort St.George, Secretariat,
Chennai – 600 009.

...Respondents

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

India to issue a Writ of Certiorarified Mandamus calling for the records



W.P.No.8355 of 2024

WEB COPY

relating to the impugned order of the first respondent issued in Na.Ka.No.10509/2023/C1 dated 01.03.2024 and quash the same and consequently and to direct the first respondent to promote the petitioner as Assistant from 01.03.2024, on par with his juniors Tmt. N.Sujatha and Tmt.A.Sathya with all service and monetary benefits, within a reasonable period as may be fixed by this Hon'ble Court and pass orders.

For Petitioner : Mr.N. Manokaran
For Respondent-1 : Mr.T. Balaji
Standing Counsel
For Respondents 2 and 3 : Mr.C. Selvaraj
Additional Government Pleader

ORDER

This petition is filed seeking to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the first respondent issued in Na.K.No.10509/2023/C1 dated 01.032024 and quash the same and consequently and to direct the first respondent to promote the petitioner as Assistant from 01.03.2024, on par with his juniors Tmt. N.Sujatha and Tmt.A.Sathya with all service and monetary benefits and pass orders.



W.P.No.8355 of 2024

WEB COPY

2. The facts of the case is that the petitioner is working as a Bill Collector in the Hosur Municipality and he is eligible for promotion as Assistant. The grievance of the petitioner is that his name was not considered for the post of Assistant in the panel prepared for the year 2023-24 inspite of the fact that no charges are pending against the petitioner on the crucial date i.e 01.04.2023. Hence, this petition.

3. The learned counsel for the petitioners submitted that the charge memo was issued to the petitioner only on 14.11.2023, whereas the crucial date for preparing the panel is on 01.04.2023. Hence, on that date there was no charge memo pending against the petitioner and he is eligible for promotion and prays for interference by this Court.

4. The learned standing counsel appearing for the respondent submitted that a member undergoing any punishment either on the crucial date or on the date of consideration for actual promotion shall not be promoted. Hence, prays to dismiss this petition.



W.P.No.8355 of 2024

WEB COPY

5. Heard both sides and perused the materials available on record.

6. On a perusal of the counter affidavit filed by the respondent it is seen that the seniority list published by the Commissioner, Hosur corporation ROC No. 2812/2019/C1 dated 11.10.2022 cited by the petitioner had lapsed and fresh seniority list were issued in the proceedings of the Commissioner, Hosur corporation in Roc.No.10509/2023/C1 dated 26.09.2023. The placement of the petitioner in the fresh seniority list is correct and is not disputed. Based on the seniority list, panel was prepared vide proceedings of the first respondent Roc.No.10509/2023/C1 dated 27.09.2023. Subsequently as per the directions of the 2nd respondent vide letter Roc.No.31538/2023/MCA2 dated 06.10.2023 wherein the G.O.No.516 MAWS (MC7) dated 02.09.2023 was cited and informed that according to the G.O., educational and test qualification prescribed in the Corporation Service Rules 1996 may be considered for promotion. However, the Service Rules 1996 is silent about Department Tests required for Junior Assistant to be promoted as Assistant. Therefore,



W.P.No.8355 of 2024

WEB COPY

Department Test prescribed in Tamil Nadu Urban Local Bodes Rule 2023 have to be considered. Accordingly the promotees who were not qualified by virtue of not passing the test and also had not completed two years of service as tax collector could not be promoted. Therefore, the promotion was cancelled vide proceedings Roc.No.10509/2023/C1 dated 11.10.2023. Hence, the petitioner was not considered due to vacancy limitation. Accordingly, this respondent's office issued proceedings in Roc.No.10509/2023/C1 dated 01.03.2024 wherein a revised panel was drawn and the petitioner's name was not included as he was undergoing a punishment of increment cut for three months without cumulative effect vide proceedings Roc.No.12633/C1/2024 dated 24.01.2024.

7. Considering the facts of the case it is made clear that the contentions of the petitioner is devoid of merits and the same cannot be accepted by this Court.



W.P.No.8355 of 2024

WEB COPY

8. In view of the above facts it is made clear that there is no merits in the submissions made by the petitioner and this petition deserves to be dismissed. Accordingly this petition is dismissed. No order as to costs. Consequently the connected miscellaneous petition are closed.

05.12.2024

Index:Yes/No

Speaking order/Non-speaking order
smn

To.

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