



W.P.Nos.11817, 15004, 23339 & 23226 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 21.03.2024

Pronounced on : 18.04.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.11817, 15004, 23339 & 23226 of 2023 and
WMP.Nos.11724, 11726, 11727, 11728, 22876, 22877, 14551, 14552,
14553, 22760 & 22762 of 2023

WP.No.11817 of 2023

A.Lakshmanan

... Petitioner

Vs.

- 1.The Additional Chief Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai 600 009
- 2.The Commissioner of Municipal Administration,
No.75, Santhome High Road,
MRC Nagar, Raja Annamalaipuram
Chennai 600 028
- 3.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore 641 001
- 4.G.Ravi
- 5.T.Vijayakumar
- 6.L.K.Baskar
- 7.S.Arasu
- 8.G.Kumaresan
- 9.S.A.Mohammed Safiyulla

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the



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records relating to the impugned order issued by the first respondent in GO(Ms).No.152 MAWS Department dated 20.10.2022 and the consequential order issued in GO.(D)No.150, MAWS Department dated 23.03.2023 and quash the same insofar as the Coimbatore City Municipal Corporation is concerned and consequently to direct the first respondent to consider the name of the petitioner in the upgraded post of City Engineer in the cadre of Chief Engineer as on 23.03.2023, the date on which the Junior Executive Engineers were promoted as Superintending Engineers.

For Petitioner : Mr.T.Ranganathan

For Respondents
For R1 & 2 : Mr.P.Kumaresan,
Additional Advocate General
Assisted by
Mrs.R.L.Karthika,
Government Advocate

For R3 : Mr.D.R.Arunkumar

R4 to 9 : Notice served

WP.No.23339 of 2023

B.Prabhakaran ... Petitioner

Vs.

- 1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai 600 009
- 2.The Director of Municipal Administration,



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No.75, Santhome High Road,
MRC Nagar, Raja Annamalaipuram
Chennai 600 028
3.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore 641 001

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned charge memo issued by the second respondent in Roc.no.21097/2023/VI dated 06.07.2023 and quash the same and consequently to direct the first respondent to consider the petitioner for promotion as Executive Engineer.

For Petitioner : Mr.T.Ranganathan

For Respondents
For R1 & 2 : Mr.P.Kumaresan,
Additional Advocate General
Assisted by
Mrs.R.L.Karthika,
Government Advocate

For R3 : Mr.D.R.Arunkumar

WP.No.15004 of 2023

A.Lakshmanan ... Petitioner

Vs.

1.The Additional Chief Secretary to Government,
Municipal Administration and Water Supply Department,



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Secretariat, Chennai 600 009

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

3.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore 641 001

4.P.R.Suganthi

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order issued by the first respondent in GO.(D)No.241, MAWS Department dated 04.05.2023 and quash the same and consequently to direct the first respondent to promote the petitioner in the post of Chief Engineer in the Coimbatore City Municipal Corporation with all consequential monetary benefits.

For Petitioner : Mr.T.Ranganathan

For Respondents

For R1 & 2

: Mr.P.Kumaresan,
Additional Advocate General
Assisted by
Mrs.R.L.Karthika,
Government Advocate

For R3

: Mr.N.Velmurugan,
Standing Counsel



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WEB COPY WP.No.23226 of 2023

A.Lakshmanan

... Petitioner

Vs.

- 1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Secretariat, Chennai 600 009
- 2.The Director of Municipal Administration,
No.75, Santhome High Road,
MRC Nagar, Raja Annamalaipuram
Chennai 600 028
- 3.The Commissioner,
Coimbatore City Municipal Corporation,
Coimbatore 641 001

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned charge memo issued by the second respondent in Roc.no.21097/2023/VI dated 06.07.2023 and quash the same and consequently to direct the first respondent to elevate the petitioner in the upgraded post of Chief Engineer from 20.10.2022 with all monetary and service benefits.

For Petitioner : Mr.T.Ranganathan

For Respondents

For R1 & 2

: Mr.P.Kumaresan,
Additional Advocate General
Assisted by
Mrs.R.L.Karthika,
Government Advocate



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For R3

: Mr.D.R.Arunkumar

COMMON ORDER

The writ petition in WP.No.11817 of 2023 has been filed challenging the order passed by the first respondent dated 20.10.2022 and the consequential order dated 23.03.2023 thereby revised the post and regularised in the Corporation except Chennai and promoted respondents 4 to 9 and accordingly regularised and promoted respondents 4 to 9 to the post of Superintending Engineer. While pending the above writ petition, the petitioner therein filed another writ petition in WP.No.15004 of 2023 challenging the order of promotion and posting / transfer thereby promoted the fourth respondent to the post of Chief Engineer. While pending the above writ petitions, the same petitioner filed another writ petition in WP.No.23226 of 2023 challenging the charge memo issued on 06.07.2023. Another delinquent in the very same charge memo has also filed writ petition in WP.No.23339 of 2023 challenging the said charge memo.



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2. The petitioner in all the writ petitions except WP.No.23339 of 2023 are one and the same and in all the above three writ petitions, the issues are connected to each writ petition and as such, this Court is inclined to pass common order.

2.1 The petitioner is working as City Engineer in the Coimbatore City Municipal Corporation. The Government issued Special Rules for all the Corporation employees except Chennai Corporation in GO(Ms).No.237, Municipal Administration and Water Supply Department dated 26.09.1996. Accordingly, under Rule 38 of the Tamilnadu Municipal Corporation Services General Rules, 1996, each corporation is a separate unit for appointment, seniority, promotion, reversion, etc. However, the petitioner was transferred and posted at Tuticorin Municipal Corporation on deputation during the year 2015. Once again, he was posted back to his parent Corporation in the year 2017. Once again, the petitioner was posted as City Engineer in Madurai City Municipal Corporation. From there, he was transferred and posted as City Engineer for Tirunelveli City Municipal Corporation. While



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being so, the Government issued the impugned order in GO.(Ms)No.152 Municipal Administration and Water Supply (MC7) Department dated 20.10.2022 thereby re-organizing the existing posts and also creating certain new posts in all the City Municipal Corporations except Chennai. Accordingly, the post of City Engineer has been upgraded to the cadre of Chief Engineer. Therefore, the petitioner submitted representation seeking promotion to the upgraded post. However, it was not considered and as such the petitioner filed writ petition before this Court in WP.No.8559 of 2023 and this Court by order dated 17.03.2023 directed the first respondent to consider and pass orders. The second respondent by its communication dated 22.09.2021 stated that the Government may transfer on administrative reasons on deputation as per the provisions under Section 114 of the Madurai City Municipal Corporation Act, 1971 and as per Section 116 of Coimbatore City Municipal Corporation Act, 1981. While pending these proceedings, the petitioner was served with charge memo consisting two charges as follows:

Charge No.1:

"That Thiru A.Lakshmanan, while working as Executive Engineer and Assistant Commissioner (i/c) in



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Coimbatore Corporation, colluded with Thiru B.Prabhakaran, Assistant Town Planning Officer, Coimbatore had entered into a criminal conspiracy with the builders for pecuniary advantage for not taking any action on the notice sent to the builders by them. He delayed to take any action on the notice which paved way for the fixation of tax and the subsequent sales of the buildings to outsiders which benefited the builders immensely".

Charge No.2:

"That Thiru A.Lakshmanan, while working as Executive Engineer and Assistant Commissioner (i/c) in Coimbatore Corporation, had failed to maintain absolute integrity and devotion to duty in a manner unbecoming of Government Servant and acted in a manner in violated of Rule 20 of the Tamil Nadu Government Servants Conduct Rules, 1973" .

3. Heard, the learned counsel appearing on either side.

4. On perusal of counters and on submissions of the learned counsel appearing on either side, revealed that the petitioner in WP.Nos.18117, 15004 & 23226 of 2023 was transferred to Madurai



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Corporation on deputation only on administrative grounds.

GO.Ms.No.152 Municipal Administration and Water Supply (MC7)

Department dated 20.10.2012 was issued thereby fixing norms reorganizing the staff structure of all the 20 Corporations (except Greater Chennai Corporation) based on its population and allied 3417 posts in all the 20 Corporations. Therefore, 5 City Engineer posts in the cadre of Chief Engineer have been allowed each in Madurai, Coimbatore, Tirupur, Tiruchirapalli and Tambaram Corporation and 6 City Engineer posts each in the cadre of Superintending Engineer have been allowed in these Corporations i.e. Salem, Tirunelveli, Vellore, Thoothukudi, Avadi and Erode. Accordingly, respondents 4 to 9 were temporarily promoted as City Engineer in the cadre of Superintending Engineer.

4.1 Though the petitioner had more than three years of experience both in the post of City Engineer / Executive Engineer, as against the petitioner, sanction of prosecution was accorded vide GO.Ms.No.59 Municipal Administration and Water Supply (ME4) Department dated 23.08.2021 and charge sheet was filed on 11.07.2022



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and the same has been taken cognizance by the Special Court in Spl.CC.No.5 of 2023 for the charges under Sections 13(1)(a) r/w 13(1)(d) of the Prevention of Corruption Act and Section 109 of IPC. The same is pending for trial. Therefore, the petitioner was not considered for promotion to the post of City Engineer in the cadre of Superintending Engineer.

5. Insofar as WP.No.15004 of 2023 is concerned, the petitioner is challenging the order of promotion of the fourth respondent herein to the post of Chief Engineer in the Coimbatore City Municipal Corporation as per the amendment of the Tamilnadu Urban Local Bodies Act, 2022 (Tamilnadu Act 35 of 2022) and framed the Tamilnadu Urban Local Bodies Rules, 2023 and the same was given effect to from 13.04.2023. Therefore, Tamilnadu Municipal Corporation General Service Rules, 1996, Tamilnadu Municipal Corporation Engineering Service Rules, 1996 and the Tamilnadu Municipal Corporation Public Health Service Rules, 1996 have ceased to be in force with effect from 13.04.2023. That apart, the disciplinary proceedings has been initiated as against the



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petitioner by the charge memo dated 06.07.2023 under Rule 17(b) of Tamilnadu Civil Services (Discipline and Appeal) Rules, 1955 which is under challenge in WP.No.23226 of 2023. The primary criteria for promotion to the post of Superintending Engineer is clear annual confidential report for the past five years including seniority. Despite the petitioner's seniority, the case of the petitioner cannot be considered for promotion due to pendency of the criminal case and also departmental proceedings. It is also curious to note that after completion of investigation, investigation agency filed final report as early as on 11.07.2022. Though it was taken cognizance in the year 2023, on the crucial date for including the petitioner's name in the panel for promotion to the post of Superintending Engineer, charge sheet has been laid in the criminal case. As per the rules, once charge sheeted, the petitioner cannot be considered for promotion. Therefore, the writ petitions in WP.Nos.15004 & 11817 of 2023 are liable to be dismissed.

6. Insofar as challenging the charge memo is concerned, both the petitioners in WP.Nos.23339 & 23226 of 2023, entered into a



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criminal conspiracy with the builders for pecuniary advantage for not taking any action on the notice sent to the builders by them. They delayed to take action on the notice which paved way for the fixation of tax and the subsequent sales of the buildings to the outsiders and thereby the builders got benefited. Therefore, it cannot be said as vague allegations. Now in the criminal case, charge sheet was laid and the same has been taken cognizance in Spl.CC.No.5 of 2023 for the charges under Prevention of Corruption Act on the file of the Special Court for Cases under Prevention of Corruption Act, Coimbatore. Therefore, as per the Rules, the departmental proceedings as well as the criminal case proceedings can go simultaneously and there is no bar to proceed with the disciplinary proceedings while pending criminal case. Charges in the criminal case as well as the departmental proceedings are not one and the same. Therefore, this Court finds no infirmity or illegality in the charge memo issued on the petitioner in WP.Nos.23226 & 23339 of 2023.

7. In view of the above, all the writ petitions are devoid of merits and liable to be dismissed. Accordingly, all the writ petitions are



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dismissed. Consequently, connected miscellaneous petitions are closed.

There shall be no order as to costs.

18.04.2024

Neutral Citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order

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Secretariat, Chennai 600 009
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- 4.The Secretary to Government,
Municipal Administration and Water Supply Department,
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No.75, Santhome High Road,
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Chennai 600 028



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G.K.ILANTHIRAIYAN, J.

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