



Writ Petition No.21632 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17-12-2024
CORAM
THE HONOURABLE MR JUSTICE BATTU DEVANAND
WP No. 21632 of 2018
&
WMP Nos.25381 & 25382 of 2018

G.Kirubakaran, Assistant
Coimbatore City Municipal Corporation,
Coimbatore-641 001

Petitioner(s)

Vs

1.The Commissioner
Coimbatore City Municipal Corporation,
Coimbatore-641 001
2.The Special Officer
Coimbatore City Municipal Corporation,
Coimbatore -641 001

Respondent(s)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent issued in Na.Ka.No.1386/2017/MC2 dated 08.06.2018, quash the same and consequently, direct the first respondent to consider the name of the petitioner in 2008 panel of Assistants and to promote him as Assistant on par with his junior namely Vanitha, who was promoted as Assistant on 27.05.2009 and also to consider him in the panel of Assistant fit for promotion as Superintendent for the year 2016 and to promote him as Superintendent on par with his junior namely Vanitha, who was promoted



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as Superintendent on 21.09.2016.

For Petitioner(s):

Mr.T.Ranganathan

For Respondent(s):

Mr. K.Magesh, Standing Counsel for R1 & 2

ORDER

This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent issued in Na.Ka.No.1386/2017/MC2 dated 08.06.2018, quash the same and consequently, direct the first respondent to consider the name of the petitioner in 2008 panel of Assistants and to promote him as Assistant on par with his junior namely Vanitha, who was promoted as Assistant on 27.05.2009 and also to consider him in the panel of Assistant fit for promotion as Superintendent for the year 2016 and to promote him as Superintendent on par with his junior namely Vanitha, who was promoted as Superintendent on 21.09.2016.

2. The learned counsel for the petitioner would submit that the petitioner was initially appointed as Junior Assistant on 21.01.1996 on compassionate grounds. His probation in the post of Junior Assistant was declared and the petitioner is due for next promotion to the post of Assistant.



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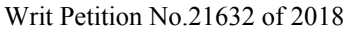
As per the Special Rules issued in G.O.(Ms) No.237, MAWS Department dated 26.09.1996, a pass in Account Test Part-I is a condition prescribed for promotion as Assistant. The petitioner appeared for the Account Test Part-I Examination on 21.12.2006 conducted by the Tamil Nadu Public Service Commission. He successfully passed the Account Test Part-I and the TNPSC issued notification in the month of March, 2007 to that effect. The result of passing the examination along with the name of the petitioner was also published in the Gazette notification in May, 2007 and the petitioner has submitted a requisition to the 1st respondent to register the same in the Service Register and to include his name in the panel for promotion of Junior Assistants to the post of Assistant for the year 2008 published on 23.12.2008, but the the 1st respondent has not considered the same, which prompted the petitioner to approach this Court by way of W.P.No.3410 of 2015, which was disposed of by this Court vide order dated 10.08.2017, directing the respondents therein to pass appropriate orders on merits and in accordance with law. However, the 1st respondent, vide impugned order dated 08.06.2018 rejected the claim of the petitioner on the ground that the panel was published on 23.12.2008 and the request for making necessary entries in the Service Register with regard to passing the



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examination was made only on 23.06.2008 and as on the crucial date, i.e. 01.04.2008, since entries were not made in the Service Register, his name was not included, which cannot be sustained.

3. The learned counsel further submits that as per the provisions under Rule 26(a) of the Fundamental Rules, the right, title, seniority and benefits accrue from the day following the date of passing the examinations. As such, the petitioner is entitled for all benefits from 23.12.2008. He further contends that one Ms.Vanitha, who is the junior to the petitioner has been included in the panel of Assistant, approved by the first respondent on 23.12.2008. The first respondent has erroneously rejected the request of the petitioner to include his name in the panel published on 23.12.2008. Due to that reason, the petitioner became junior to said Vanitha and subsequently, in the next panel prepared for the post of Superintendent and the petitioner lost the promotional avenues thereafter. The learned counsel further submits that the said Vanitha, who is junior to the petitioner was promoted as Assistant on 27.05.2009 and promoted as Superintendent on 21.09.2016 and the petitioner was promoted as Junior Assistant on 26.05.2009 and also promoted as Superintendent on 22.12.2010. Hence, the learned counsel for



4. On the other hand, learned Standing Counsel appearing for the respondents, basing on the averments made in the counter affidavit filed by first respondent and based on the written instructions received from the respondents, would submit that during the pendency of this Writ Petition, seniority list in the cadre of the Assistants has been revised by the respondents and the petitioner was promoted on 26.05.2009 notionally along with his junior namely Vanitha, who was promoted on 27.05.2009. The special benefits are provided with effect from 30.09.2009. Subsequently, petitioner was promoted as Superintendent in the year 2018. The petitioner and his junior both are promoted as Administrative Officers on 2024.

5. At this stage, the learned counsel for the petitioner would submit



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that though the mistake occurred in preparation of the panel for the post of Assistant in the year 2008, has been rectified by the respondents, but the consideration of the case of the petitioner in including the panel for the post of Superintendent continued thereafter also and due to that there is some monetary loss to the petitioner and it has to be rectified.

6.Considering the facts and circumstances of the case and having heard the respective counsels and on careful perusal of the material available on record, it appears that though there was some mistake committed by the respondents in preparing the panel for the post of Assistant in 2008, as per the statement of the learned Standing counsel for the respondents, it is rectified and the petitioner was promoted to the post of Assistant with effect from 26.05.2009 notionally and the junior of the petitioner namely, Vanitha was promoted on the next day. But in getting promotions to the post of Superintendent, it appears that the junior of the petitioner viz., Vanitha was promoted in the year 2016 while the petitioner was promoted as Superintendent in the year 2018. On perusal of the same, it appears that the respondents have failed to rectify the mistake in preparation of the panel for the post of Superintendent cadre. Due to that reason, the petitioner had



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certainly sustained some loss in monetary benefits.

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7. Accordingly, in view of the above, in the considered opinion of this Court, the petitioner is entitled for rectification of the monetary loss caused to him due to the mistake committed by the respondents in preparing the panel for Assistant in the year 2008 and also failed to rectify the mistake in preparation of the panel for the post of Superintendent cadre.

8. For the above said reasons, this Writ Petition is disposed of with a direction to the respondents to reconsider the issue afresh and pass orders, giving promotion to the petitioner to the post of Superintendent notionally on par with his junior.

No costs.

Consequently, connected miscellaneous petition are closed.

17.12.2024

Index : Yes/No
Speaking order: Yes/No
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BATTU DEVANAND, J



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To

1. The Commissioner
Coimbatore City Municipal Corporation, Coimbatore-
641 001

2. The Special Officer
Coimbatore City Municipal Corporation, Coimbatore -641 001

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