



W.P.No.11419 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 24.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.11419 of 2024
and W.M.P.Nos.12526, 12527 and 12528 of 2024

N.Selvaraj

.. Petitioner

Versus

1. The Commissioner,
Vellore City Municipal Corporation,
Vellore - 632 009.
 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, pleased to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 2nd respondent issued in Na.Ka.No.3315/2022/MCA3, dated 05.04.2023 and quash the same and consequently, to direct the 1st and 2nd respondents to permit the petitioner to continue as Assistant Engineer in Vellore City Municipal Corporation in



W.P.No.11419 of 2024

the light of the orders passed by the Government in G.O.(Ms) No.79, MAWS Department, dated 30.04.2001, with all service and monetary benefits within a reasonable period as may be fixed by this Court.

For Petitioner : Mr.T.Ranganathan

For Respondents : Mr.P.S.Prabhu, for R1

: Mr.Stalin Abhimanyu,
Additional Government Pleader,
for RR-2 and 3

ORDER

This Writ Petition is filed seeking to quash the impugned order, dated 05.04.2023 of the second respondent and consequently, for a direction to the respondent Nos.1 and 2 to permit the petitioner to continue as Assistant Engineer in Vellore City Municipal Corporation in the light of the orders passed by the Government in G.O.(Ms).No.79, MAWS Department, dated 30.04.2001 with all service and monetary benefits within a reasonable period as may be fixed by this Court.

2. The petitioner is working as an Assistant Engineer in Vellore City Municipal Corporation. Originally, the petitioner was working as a Technical Assistant and while so, by the order, dated 02.01.2019, the



W.P.No.11419 of 2024

WEB COPY

petitioner was appointed as an Assistant Engineer. It can be seen that the order reads as if the petitioner is promoted to the post of Assistant Engineer.

3. Upon perusal of the material records filed along with the Writ Petition, the recruitment to the said post is governed by the recruitment rules namely, the *Tamil Nadu Municipal Corporations Engineering and Water Supply Subordinate Service Rules, 1996*. As per the same, originally, the post was to be filled only by way of direct recruitment. By G.O.Ms.No.59, dated 03.03.2016, the rule was amended to include transfer from service also as a method of recruitment. As far as transfer from service is concerned, candidates must possess a degree in Engineering and should have also put in five years of service as a Junior Engineer.

4. According to the respondents, since the petitioner did not put in five years of service in the cadre of Junior Engineer, straightaway, appointing him to the post of Assistant Engineer was erroneous and therefore, he is now sought to be reverted. On the contrary, learned Counsel for the petitioner would submit that the petitioner's appointment is not by way of transfer, but, should be treated as one of direct recruitment. The



W.P.No.11419 of 2024

WEB COPY

learned Counsel, by relying upon G.O.Ms.No.79, dated 30.04.2001, would submit that the Government had earlier permitted the Municipal Corporations to fill up the vacancies meant for direct recruitment quota from among the employees who possess the Engineering degree. Pursuant thereto, even employees, who are working in the grade of Skilled Assistant Grade - II and Gang Mazdoor have been appointed as Assistant Engineer. Therefore, when the petitioner's appointment has to be treated under the direct recruitment quota, there is no question of the petitioner working in the cadre of Junior Assistant or putting in five years of service. He would also point out similar cases of Skilled Assistant Grade - I, Grade - II, Gang Mazdoor etc.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. Upon perusal of the order, dated 02.01.2019, it can be seen that the petitioner was appointed as an Assistant Engineer on a regular basis. Therefore, if the respondents want to revert the petitioner, the same cannot be done without affording an opportunity to the petitioner. On a perusal of



W.P.No.11419 of 2024

the impugned order, it would be clear that absolutely, no show-cause notice whatsoever was issued to the petitioner and based on the instructions received from the Deputy Director (Corporations), the impugned order has been passed. To the said effect, written instructions are also given to the learned Additional Government Pleader for the respondents. In that view of the matter, the impugned order cannot be sustained.

7. As far as the other contentions of the petitioner that the petitioner has to be considered as direct recruitment is concerned, the same can be raised by the petitioner while giving a reply to the show-cause notice, if any, issued by the petitioner and the respondents can consider the same on merits and in accordance with law.

8. In view thereof, this Writ Petition is disposed of on the following terms :-

- (i) The impugned order, dated 05.04.2023 shall stand quashed;
- (ii) The respondents shall be at liberty to initiate fresh proceedings by giving show-cause notice/affording an opportunity to the petitioner if they still choose to revert the petitioner;



W.P.No.11419 of 2024

WEB COPY

(iii) As and when the show-cause notice is issued, the petitioner will be entitled to raise all the grounds including those grounds raised in the Writ Petition and it is for the respondents to consider the same in accordance with law and pass orders thereon on merits;

(iv) There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

24.04.2024

Index : yes
Speaking order
Neutral Citation : yes
grs

To

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