



W.P.No.13813 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2024

CORAM:

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

W.P.No.13813 of 2022 and
WMP.Nos.13099 & 13100 of 2022

V.Ravichandran

... Petitioner

Vs.

1.The Government of Tamilnadu,
Rep. By its Additional Chief Secretary,
Municipal Administration & Water Supply (MC-5) Department,
Secretariat,
Chennai 600 009

2.The Commissioner of Municipal Administration,
Chennai 600 028

3.The Commissioner,
Salem Corporation, Salem

4.V.Chandran

... 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
of the respondents pertaining to the impugned order passed by the third



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respondent vide Na.Ka.No.C3/725/2022 dated 12.01.2022 and consequential order dated 31.03.2022 and quash the same as being illegal, arbitrary and unconstitutional and consequently direct the third respondent to promote the petitioner in the post of Assistant Executive Engineer(Mechanical and Solid Waste Management) with all benefits.

For Petitioner : Mr.S.Sivakumar

For Respondents

For R1 & 2 : Mr.K.Tamilvendan,
Government Advocate

For R3 : Mrs.N.Devi,
Standing Counsel

For R4 : Mr.V.Vasanthakumar

ORDER

This writ petition has been filed challenging the order of promotion of the fourth respondent dated 12.01.2022 thereby promoted the fourth respondent to the post of Assistant Executive Engineer.

2. The petitioner was working in the third respondent's Office



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as Junior Assistant. While being so, there was vacant to the post of Assistant Executive Engineer on 31.08.2000 in view of the retirement of the incumbent. As per the guidelines issued by the first respondent to fill up the post of Assistant Executive Engineer by the Government order in GO.Ms.No.138 Municipal Administration and Water Supply Department dated 27.05.1997, if any supernumerary post of Assistant Executive Engineer is available and if any existing Assistant Engineer having experience in Mechanical Engineering, may be considered for appointment to the said post. Otherwise, the Motor Mechanical Superintendent / Junior Engineer (Mechanical Engineering) who has completed 20 years of service and has been designated as Assistant Engineer (Special) may be appointed as Assistant Executive Engineer (Mechanical Engineering and Solid Waste Management). Even if such Motor Mechanic Superintendant /Junior Engineer is not available in the Corporation for the present, one of the existing Assistant Engineer of the Corporation may be posted to be incharge of such Corporation Vehicles and Solid Waste Management in the Corporation. Accordingly, the fourth respondent was promoted to the post of Assistant Executive



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Engineer(Mechanical Engineering and Solid Waste Management).

3. The case of the petitioner is that he is having total experience of 24 years as Junior Engineer. That apart, he was in charge of purchase of vehicles for solid waste management in Salem City Municipal Corporation. Therefore, the petitioner submitted representation to promote him as Assistant Executive Engineer (Mechanical Engineering and Solid Waste Management). However, it was not considered and promoted the fourth respondent to the post of Assistant Executive Engineer (Mechanical Engineering and Solid Waste Management). Further, the case of the petitioner is that the fourth respondent does not have eligible qualification of Mechanical Engineering and required experience for the post of Assistant Executive Engineer (Mechanical and Solid Waste Management).

4. On perusal of the counter filed by the respondents revealed that the petitioner was appointed as Junior Engineer of the third respondent Corporation by transfer from Chennai Corporation to Salem Corporation under the condition of single door transfer. The promotional



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transfer to the petitioner is as per the single door transfer only and accordingly, he was considered as junior in the seniority list in the Salem Corporation. Thereafter, he was promoted to the service of the third respondent Corporation by the proceedings dated 07.03.2001 and on that date, he stood in the nineteenth position. Though the petitioner has served for twenty years, there are two other Assistant Engineers in position Nos.1 and 2 and the petitioner is placed in the third position. Further, the fourth respondent has been working as Junior Assistant from 03.07.1995. Subsequently, he was promoted to the post of Assistant Engineer Special Grade-I as per the proceedings dated 12.01.2022. Therefore, the fourth respondent is senior than the petitioner.

5. That apart, the petitioner simply averred in the affidavit that the fourth respondent does not have eligible qualification of Mechanical Engineering and required experience. As per GO.Ms.No.138 Municipal Administration & Water Supply Department dated 27.05.1997, if any supernumerary post of Assistant Executive Engineer is available and if any existing Assistant Engineer having experience in Mechanical



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Engineering, may be considered for appointment to the said post. Otherwise, the Motor Mechanical Superintendent / Junior Engineer (Mechanical Engineering) who has completed 20 years of service and has been designated as Assistant Engineer (Special) may be appointed as Assistant Executive Engineer (Mechanical Engineering and Solid Waste Management). Even if such Motor Mechanic Superintendant /Junior Engineer is not available in the Corporation for the present, one of the existing Assistant Engineer of the Corporation may be posted to be incharge of such Corporation Vehicles and Solid Waste Management in the Corporation. Accordingly, the petitioner was not at all promoted to the post of Assistant Engineer. Whereas the fourth respondent was promoted to the post of Assistant Engineer on 12.01.2022 and as such, he is the eligible person to be promoted to the post of Assistant Executive Engineer. That apart, now the petitioner has been promoted to the post of Assistant Executive Engineer on 01.08.2023. Further, the fourth respondent was placed under suspension. Therefore, this Court finds no infirmity or illegality in the order passed by the third respondent. As such, this writ petition is devoid of merits and liable to be dismissed.



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6. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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To

1. Additional Chief Secretary,
The Government of Tamilnadu,
Municipal Administration & Water Supply (MC-5) Department,
Secretariat,
Chennai 600 009
2. The Commissioner of Municipal Administration,
Chennai 600 028
3. The Commissioner,
Salem Corporation, Salem



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