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W.P.No. 19366 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**W.P.No.19366 of 2022
and
W.M.P.Nos.18666 & 18667 of 2022**

A.Amalraj

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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,
Raja Annamalaipuram, Chennai – 600 028.

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

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Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of the first respondent issued in Letter No.20542/MC4/2020-1 dated 27.05.2022 and the consequential order passed by the third respondent in his un-official note Na.Ka.No.1740/2020/MC2, dated 13.06.2022 and quash the same and consequently to direct the first respondent to sanction the pay scale attached to the post of Secretary to Council in Greater Chennai



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Corporation to the Secretary to Council of Coimbatore City Municipal Corporation.

For Petitioner : Mr.S.N.Ravichandran
For R1 & R2 : Mrs.R.L.Karthika
Government Advocate
For R3 : Mr.K.Magesh
Standing Counsel

ORDER

This Writ Petition has been filed challenging the order dated 27.05.2022 in Letter No.20542/MC4/2020-1 passed by the first respondent, thereby rejected the request made by the petitioner for sanctioning the pay scale attached to the post of Secretary to Council in Greater Chennai Corporation to the petitioner.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was appointed as Health Assistant in the Coimbatore City Municipal Corporation on 09.11.1989. The said post was amalgamated with the post to Sanitary Inspector. He also acquired the qualification of B.L., and as such, he was considered to the post of Secretary to Council and the petitioner had assumed charge on 27.10.2010. He was also placed on full additional charge to the post of



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Law Officer from 02.04.2018, by the proceedings dated 02.04.2018.

Thereafter, the Government issued Special Rules to the Tamil Nadu Municipal Corporations General Service Rules, 1996, in G.O.Ms.No.237, MAWS Department, dated 26.09.1996.

4. As per Rule 3 of the above said Special Rules, the post of Assistant Commissioner (Ward) can be filled by transfer from the post of Assistant Commissioner (Personnel), Assistant Commissioner (Revenue) and Assistant Commissioner (Accounts). The post of Assistant Commissioner (Personnel) can be filled by transfer from the post of Assistant Commissioner (Ward), Assistant Commissioner (Revenue) and Assistant Commissioner (Accounts). Likewise, the post of Assistant Commissioner (Revenue) can be filled by transfer from the post of Assistant Commissioner (Ward), Assistant Commissioner (Personnel) and Assistant Commissioner (Accounts). The post of Assistant Commissioner (Accounts) can be filled up by promotion from the holders of the post in Class-II or by transfer from the post of Assistant Commissioner (Ward), Assistant Commissioner (Personnel) and Assistant Commissioner (Revenue).

5. The Secretary to Council post is classified under Class-II,



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but not considered for promotion as Assistant Commissioner. Therefore, the petitioner submitted a representation to the third respondent to upgrade the same post with a scale of pay of Rs.15600-39100/- with a grade pay of Rs.5700/- from 9300-34800/- with grade pay of Rs.5700/-, as per the G.O.Ms.No.137, MAWS Department, dated 08.10.2016. The third respondent also recommended for upgradation of the pay of the Secretary to the Council of Coimbatore Municipal Corporation to the first respondent. However, by an order dated 27.05.2022, the first respondent has rejected the proposal sent by the third respondent. Hence, this writ petition.

6. A perusal of the impugned order reveals that the petitioner was accorded promotion by relaxing relevant Rules in his favour. Therefore, he cannot be further promoted to the post of Assistant Commissioner as per Service Rules. On completion of ten years in the post of Secretary to Council, the individual will be eligible for Selection Grade pay and his request for revision is based on the upgradation and revision already granted to Secretary to Council, Greater Chennai Corporation. As pay differs from one Corporation to another Corporation, it is not feasible to enhance the pay of the Secretary to



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Council on par with Secretary to Council of Greater Chennai Corporation.

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7. The learned counsel appearing for the petitioner would submit that the first respondent cannot reject the Council resolution without any show cause notice as per Section 49 of the Coimbatore City Municipal Corporation Act, 1981.

8. On instructions, Mrs.R.L.Karthika, learned Government Advocate appearing for the first respondent submitted that already the petitioner was promoted to the post of Secretary to Council by relaxing relevant Rules in his favour. Therefore, he cannot be further promoted to the post of Assistant Commissioner. After completion of ten years, he will be eligible for Selection Grade. Therefore, he is not eligible for any upgradation or revision, which are already granted to the Secretary to Council, Greater Chennai Corporation.

9. A perusal of the counter filed by the second and third respondents reveals that though the third respondent recommended the case of the petitioner by its resolution, the first respondent is the authority to take a decision. The third respondent cannot unilaterally effect revision



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of grade pay to the Secretary to Council without the approval of the first respondent. However, the revision of scale of pay, based on the upgradation and revision already granted to Secretary to Council, Greater Chennai Corporation, and the same cannot be applicable to the third respondent Corporation as pay differs from one Corporation to another Corporation.

10. Therefore, this Court finds no infirmity or illegality in the order dated 27.05.2022 in Letter No.20542/MC4/2020-1 passed by the first respondent. Thus, the writ petition is devoid of merits and it is liable to be dismissed. Accordingly, this Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

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Index: Yes/No
Speaking Order: Yes
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