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W.A.No.3525 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2024

CORAM :
THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.A.No.3525 of 2024

A.Amalraj .. Appellant

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.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order passed in W.P.No.19366 of 2022 dated 11.03.2024.

For the Appellant : Mr.T.Ranganathan

For the Respondents : Mr.S.Yashwanth
Additional Government Pleader
for R1 and R2

JUDGMENT

(Judgment of the Court was made by R.SURESH KUMAR, J.)

This intra-Court appeal has been directed against the order passed by the Writ Court dated 11.03.2024 made in W.P.No.19366 of 2022.



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2.2. The appellant was appointed as "*Health Assistant*" in the Coimbatore City Municipal Corporation on 09.11.1989, which was later amalgamated with the post "*Sanitary Inspector*". He acquired the qualification of Bachelors in Law Degree, which was the required qualification to hold the post of "*Secretary to Council*", therefore, the name of the appellant was considered and accordingly, he has been given the post of Secretary to Council, which he took charge on 27.10.2010. As per the Tamil Nadu Municipal Corporation General Service Rules, 1996, the post of Secretary to Council comes under Class II Category 1. The appellant had also been given the full additional charge to the post of Law Officer from 02.04.2018 by the proceedings of the Corporation dated 02.04.2018.

2.3. In this context, the Government issued Special Rules to the Tamil Nadu Municipal Corporations General Service Rules, 1996, under G.O.Ms.No.237, MAWS Department, dated 26.09.1996. As per the said Special Rules, the post of "*Secretary to Council*" will be in two tiers, that is, "*Secretary to Council Grade I*" and "*Secretary to Council Grade II*". But, insofar as the respondent Municipal Corporation is concerned, the "*Secretary to Council Grade II*" post alone is available and there is no "*Secretary to Council Grade I*" post.



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2.4. Probably, the reason for the same is that major Municipal Corporations like Chennai, such kind of "*Secretary to Council Grade I*" post would be available, where the feeder category would be "*Secretary to Council Grade II*" and the candidate must possess Bachelors in Law Degree and must have rendered service as "*Secretary to Council Grade II*" for a period not less than five years to get promoted to the post of "*Secretary to Council Grade I*".

2.5. However, it is claimed by the appellant writ petitioner that equal to the post of "*Secretary to Council Grade I*", which is available with the Chennai Corporation, the post which the appellant writ petitioner is presently working, i.e., "*Secretary to Council Grade II*", may be upgraded to the post of "*Secretary to Council Grade I*" and accordingly, after upgradation, he shall be posted as "*Secretary to Council Grade I*", as he is the only available person in the feeder category to be posted as "*Secretary to Council Grade I*".

2.6. With this request, the appellant writ petitioner approached the respondents, which having been considered was rejected by the order dated 27.05.2022 by the State Government, that is the first respondent. Consequential order has been passed by



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the third respondent Municipal Corporation on 13.06.2022. Both these orders have been challenged in the impugned writ petition.

2.7. The learned Single Judge considered the Rule position as well as the position whether the post of "*Secretary to Council Grade II*", held by the appellant writ petitioner, is the only post available with the concerned Corporation and whether the appellant has rendered ten years of service as "*Secretary to Council Grade II*", to be entitled to get the benefit of Selection Grade pay, accordingly, the pay would also be revised. Hence, the plea made by the appellant writ petitioner to upgrade the post to "*Secretary to Council Grade I*", as has been available in a Corporation like Chennai Corporation, cannot be acceded to and therefore, in this context, the rejection made by the first respondent, followed by the third respondent Municipal Corporation, were held to be settled in consonance with the Rule position and hence, the learned Single Judge found no infirmity or illegality in the orders dated 27.05.2022 and 13.06.2022 and accordingly, dismissed the writ petition through the impugned order dated 11.03.2024.

3.1. We have heard *Mr.T.Ranganathan*, learned counsel for the appellant writ petitioner, who would canvass the point that



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already the appellant writ petitioner has crossed the pay scale which is equivalent to the pay scale of "Secretary to Council Grade I". Therefore, no additional financial commitment would exist for the Government or the concerned Corporation in upgrading the post to "Secretary to Council Grade I" and if such an upgradation is given, the candidature of the appellant writ petitioner can also very well be considered as he is the only feeder category candidate available to get promoted to the post of "Secretary to Council Grade I", which has been refused despite resolution having been passed in this regard by the Coimbatore Municipal Corporation, that is the third respondent.

3.2. Once the Municipal Corporation passes a resolution and forward the same to the Government, that resolution, if to be rejected by the Government, notice should have been given under the provisions of the relevant Act. Such a procedure also has not been adopted or followed by the Government before passing the impugned order dated 27.05.2022. On that ground also, the impugned orders before the Writ Court ought to have been interfered with by the learned Single Judge. However, since the learned Single Judge has not accepted the said proposition, by thus, dismissing the writ petition, the order impugned is liable to be



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interfered with, he contended.

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4. We have considered the said submissions made by the respective parties and have perused the materials placed on record.

5.1. Insofar as the upgradation to the post of "*Secretary to Council Grade I*" is concerned, it is not a mandatory one, but only at the benevolence of the incumbent, who is holding the post of "*Secretary to Council Grade II*". The reason is that the posts of "*Secretary to Council Grade I*" and "*Secretary to Council Grade II*" are two separate cadres with separate scale of pay. Depending upon the volume of business in major Corporations, the post of "*Secretary to Council Grade I*" may be created. That is how in Chennai Corporation, the post of "*Secretary to Council Grade I*" has been created, where promotion can be made possibly from the feeder category, i.e., the post of "*Secretary to Council Grade II*".

5.2. Whereas, such a situation is not available in respect of the third respondent Municipal Corporation in view of the volume of business compared with Chennai Corporation. Therefore, the very comparison between Chennai Corporation and Coimbatore Corporation, thereby requesting to create the post of "*Secretary to*



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Council Grade I at Coimbatore Corporation, itself is a wrong notion by the appellant writ petitioner. Therefore, it was rejected by the first respondent, of course, correctly.

5.3. More so, insofar as the salary component is concerned, it is submitted by the learned counsel appearing for the appellant writ petitioner that already, the appellant has crossed the salary which is equivalent to the post of "*Secretary to Council Grade I*" by virtue of the long service he has rendered. When that being so, there will be no monetary loss to the appellant in this regard. Assuming if there is monetary loss, that cannot be a reason for creating any post unless and until that post is necessary for the Institution concerned.

6.1. Therefore, looking from any angle, it is not a right vested with the appellant writ petitioner to seek such an upgradation of post and a consequential promotion to the post of "*Secretary to Council Grade I*" to the third respondent Municipal Corporation. Hence, the plea raised by the appellant writ petitioner, having been considered and rejected by the State Government by its order dated 27.05.2022, which has been upheld by the Writ Court by order dated 11.03.2024, in the eye of law, is perfectly valid and therefore, need not be interfered with. The reason given by the learned Single



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Judge and the conclusion arrived by him through the impugned order by dismissing the writ petition filed by the appellant writ petitioner is also in consonance with the Rule position as well as the factual matrix, therefore, it does not warrant any interference by this Court.

6.2. Accordingly, the appeal fails and hence, the writ appeal stands dismissed. There shall be no order as to costs. Consequently, C.M.P.Nos.27287 & 27289 of 2024 are closed.

(R.S.K., J.) (C.S.N, J)
03.12.2024

Neutral Citation:Yes/No

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To:

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C. SARAVANAN, J.

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