



WP(MD) No10541 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.10541 of 2024

and

W.M.P(MD)No.9457 of 2024

Malliga

.. Petitioner

Vs.

1. The Commissioner,
Rural Development and Directorate of Panchayat,
Chennai-15.

2.The District Collector,
Thoothukudi District.

3.The Commissioner,
Panchayat Union,
Kovilpatti,
Thoothukudi District.

.. Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order of the 3rd respondent dated 18.04.2023 in A4/535/2023 and quash the same and consequently direct the 3rd respondent to promote the petitioner as Office Assistant.

For Petitioner : Mr.S.Ramasamy

For Respondents : Mr.M.Lingadurai

Special Government Pleader
for R1 & R2

: Mr.N.Ramesh Arumugam

Government Advocate for R3

ORDER

The petitioner has filed this Writ Petition seeking Writ of Certiorarified Mandamus to quash the impugned order of the 3rd respondent dated 18.04.2023 in A4/535/2023 and for a consequential direction to the 3rd respondent to promote the petitioner as Office Assistant.



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2. Heard Mr.S.Ramasamy, learned counsel for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader for the respondents 1 & 2 and Mr.N.Ramesh Arumugam, learned Government Advocate for the 3rd respondent.

3. Mr.S.Ramasamy, learned counsel for the petitioner submitted that the petitioner has been working as Sanitary Worker nearly about two decades, no promotion had been given to her and according to the petitioner even though the petitioner is eligible of getting promotion to the post of Office Assistant, the Department refused to promote him to the post of Sanitary Supervisor.

4. Mr.M.Lingadurai, learned Special Government Pleader for the respondents submitted that considering the service of the petitioner, the benefit has been given as per G.O.Ms.39 Rural Development and Panchayat Department to the petitioner to draw special scale of pay.



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5. Attention was drawn by the learned counsel for the petitioner to the judgment of this Court in W.P(MD)Nos.8131 of 2009 and 4768 of 2011 wherein it is held that next promotion to the post of Sanitary worker is Sanitary Supervisor and hence, the petitioner therein shall not be entitled to claim promotion to the post of Office Assistant. The relevant portion of the order is extracted as under:

"11. Be that as it may, insofar as the claim of the petitioner to get the post of Office Assistant, by way of promotion, the Rule does not provide for the said promotion, because post of Office Assistant cannot be made by way of promotion from among the feeder category of Sanitary Worker. If at all the petitioner has got any promotional avenue from the post of Sanitary Worker, he can be considered only as Sanitary Supervisor not as Office Assistant. Therefore, this Court is of the considered view that the impugned order, through which, the 2nd respondent has been appointed as Office Assistant directly cannot be questioned by the petitioner on the ground that the



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petitioner would be entitled to be considered for the said post of Office Assistant by way of promotion from the post of Sanitary Worker. Therefore, the impugned order is fully sustainable and therefore, it requires no interference from this Court. However, insofar as the claim made by the petitioner is concerned, the Regulation, as has been extracted above, clearly proved that only from the post of Sanitary Worker, he would be considered for the next higher promotion to the post of Sanitary Supervisor; where the petitioner would come to the turn for consideration to the post of Sanitary Supervisor can be decided by the first respondent Municipality, of course, after ascertaining the actual seniority of the petitioner and other co-employees working in the same category.

12. Since the list of candidates submitted by the first respondent consisting of 12 persons, who are sanitary workers in the first respondent Municipality is seriously disputed by the learned counsel for the petitioner, it is for the first respondent to draw the panel and the sanitary



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worker based on their seniority fit for promotion to the post of Sanitary Supervisor and once such a panel is prepared, the same can be kept pending and whenever, vacancy arises for the post of Sanitary Supervisor from among the candidates, whose name found in the said list of seniority, appointment by way of promotion can be made."

6. The issue involved in the case on hand is squarely applicable to the above judgment. Hence, the present writ petition is **disposed of** in the line of the earlier order already passed in W.P. (MD)Nos.8131 of 2009 and 4768 of 2011. No Costs. Consequently, connected miscellaneous petition is closed.

07.06.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
PJJ



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R.N.MANJULA, J.

PJL

**Order made in
W.P.(MD)No.10541 of 2024
and
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