



W.P.Nos.28460 of 2023 & 39046 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2025

CORAM:

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

W.P.Nos.28460 of 2023 & 39046 of 2024 and
WMP.No.28005 of 2023

WP.No.28460 of 2023

M.Ponraj Selvakumar

... Petitioner

Vs.

1.THE SECRETARY TO GOVERNMENT,
MUNICIPAL ADMINISTRATION AND WATER SUPPLY
DEPARTMENT, SECRETARIAT, FORT ST. GEORGE, CHENNAI-
600 009.

2.THE SECRETARY TO GOVERNMENT,
HUMAN RESOURCES MANAGEMENT DEPARTMENT,
SECRETARIAT, FORT ST. GEORGE, CHENNAI- 600 009.

3.THE SECRETARY TO GOVERNMENT,
FINANCE DEPARTMENT, SECRETARIAT, FORT ST GEORGE,
CHENNAI- 600 009.

4.THE SECRETARY,
TAMIL NADU PUBLIC SERVICE COMMISSION, V.O.C.NAGAR,
PARK TOWN, CHENNAI- 600 003.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus Calling for the records of the proceedings of the 1st Respondent made in GO (3D) No. 14



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Municipal Administration and water supply Department dated 20-11- 2021 and GO (3D) No. 15 Municipal Administration and water Supply Department dated 09- 12-2021 and quash the same in so far as 11 Juniors Superintendents from the office of the Director of Municipal Administration, Chennai- 28 who are presently temporarily appointed as Municipal Commissioner Grade - II under Section - 17 (1) of Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and consequently direct the 1st Respondent to revert back them to office of the Director of Municipal Administration, Chennai- 28 and appoint Petitioner as Municipal Commissioner Grade - II forthwith by Recruitment by Transfer temporarily, as per Section - 17 (1) and (5) of Tamil Nadu Government Servants (Conditions of Service)Act, 2016.

For Petitioner : Mr.S.Thirumavalavan

For Respondents

For R1 to 3 : Mr.C.Selvaraj,
Additional Government Pleader

For R4 : Mr.B.Vijay,
Standing Counsel

WP.No.39046 of 2024

M.Ponraj Selvakumar

... Petitioner



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Vs.

1.THE SECRETARY TO GOVERNMENT,
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600 009.

2.THE SECRETARY TO GOVERNMENT,
HUMAN RESOURCES MANAGEMENT DEPARTMENT,
SECRETARIAT, FORT ST. GEORGE, CHENNAI- 600 009.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to appoint the petitioner as Selection Grade Commissioner on par with the petitioner's Juniors viz., D.Malligha within the time stipulated by this Court.

For Petitioner : Mr.S.Thirumavalavan

For Respondents : Mr.C.Selvaraj,
Additional Government Pleader

COMMON ORDER

The writ petition in WP.No.28460 of 2023 has been filed challenging the proceedings of the first respondent dated 20.11.2021 and 09.12.2021 insofar as promotion of 11 persons as Superintendents. The writ petition in WP.No.39046 of 2024 has been filed for direction to the



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respondents to appoint the petitioner as Selection Grade Commissioner on par with the petitioner's Junior viz., D.Malligha within the time stipulated by this Court.

WP.No.28460 of 2023

2. The petitioner had joined as Junior Engineer. Thereafter, he was promoted to the post of Assistant. After completion of the departmental tests for Municipal Commissioner Part-1 and Municipal Commissioner Part-II, he was promoted to the post of Superintendent in the Office of the Commissioner of Municipal Administration and joined on 27.02.2015. The petitioner was issued charge memo dated 23.03.2016 under Rule 17(b) of the Tamilnadu Civil Services (Discipline and Appeal) Rules. While the charges were pending, the petitioner was deputed to the Tamilnadu State Election Commission for a period of two years. After completion of the deputation period, once again the petitioner had joined as Superintendent in the Office of Commissioner of Municipal Administration. While being so, the posts of Municipal Commissioner Grade-II, shall be filled by Open Market by direct



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recruitment and recruitment by transfer from the post of Assistant Section Officer, Superintendent (Municipal Administration Department) and Executive Officer (Town Panchayat Subordinate Service). There was no direct recruitment for the post of Municipal Commissioner Grade-II and the posts earmarked for direct recruitment got accumulated and there was no immediate possibility to conduct direct recruitment to the said posts. Therefore, the first respondent decided to fill up the said 20 vacant posts temporarily by appointing by Recruitment by Transfer method. Accordingly, the posts were filled up under Section 17(1) of the Tamilnadu Government Servants (Conditions of Service) Act, 2016. The first respondent had upgraded 18 Special and 10 Selection Grade Town Panchayats into 28 Municipalities without classification of municipality. The first respondent had approved 28 candidates to the new posts from four categories viz., 8 Municipal Employees by direct recruitment, 7 Junior Superintendents of Office of the Director of Municipal Administration, 4 Executive Officers of Town Panchayats and 9 Assistant Section Officers of Secretariat by recruitment by transfer temporarily as Municipal Commissioner Grade-II under Section 17(1) of Tamilnadu



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Government Servants (Conditions of Service) Act for the year 2021-2022

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by the proceedings dated 09.12.2021.

3. The first respondent with the concurrence of the second respondent, by the proceedings dated 20.11.2021 and 09.12.2021 appointed 48 candidates as Municipal Commissioner Grade-II temporarily by recruitment by transfer by invoking the very same provisions under Section 17(1) of Tamilnadu Government Servants (Conditions of Service) Act. The petitioner possesses the prescribed qualification for the post of Municipal Commissioner Grade-II. However, only because of pendency of the charges, the petitioner was not considered. No enquiry or charge sheet was pending on the allegation of corruption or misconduct. Therefore, as per Section 17(4) of Tamilnadu Government Servants (Conditions of Service) Act, the respondents ought to have considered the petitioner for promotion to the post of Municipal Commissioner Grade-II. Further, merit and ability for appointment by recruitment by transfer are equal for promotion as per Section 43 of Section 17(1) of Tamilnadu Government Servants (Conditions of



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Service) Act, as the pay scale to the feeder post of Municipal Commissioner Grade-Ii is lower than the higher pay scale for the post of Superintendent and the post of Municipal Commissioner Grade-II is a feeder post and not promotion post. Hence, merit and ability need not be considered for appointment of Superintendent.

4. On perusal of the counter affidavit filed by the first respondent and on hearing the submissions made by the learned Additional Government Pleader appearing for respondents 1 to 3, it is revealed that while the petitioner was in service as Superintendent, he was served with charge memo dated 23.03.2016 under Rule 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules alleging that there was procedural lapse committed during the year 2012 while he was working as Assistant. While pending charges, the petitioner was deputed to Tamilnadu State Election Commission for a period of two years and thereafter he was returned back to the original post as Superintendent in the parent department from 22.01.2018. Upgradation of certain Town Panchayats into Municipalities necessitated filling up of vacancies which



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arose in the cadre of Municipal Commissioner Grade-II. Therefore, the first respondent issued Government Order thereby created and appointed 20 persons as Municipal Commissioner Grade-II and also appointed 28 Municipal Commissioner Grade-II by an order dated 19.12.2021 on temporary basis with certain conditions. Those appointments were made by way of recruitment by transfer from various categories by following the procedure under Section 17(1) of Tamilnadu Government Servants (Conditions of Service) Act. Further, pendency of charges shall be a bar for inclusion of the petitioner's name in the approved list for promotion. During the disciplinary proceedings, enquiry officer was appointed and the enquiry officer submitted report. Further, enquiry officer concluded that two charges were proved and the petitioner was called for explanation with regards to the findings of the enquiry officer . However, the petitioner failed to submit any explanation.

5. Therefore, this Court finds no infirmity or illegality in the impugned orders As such, the writ petition in WP.No.28460 of 2023 is dismissed.



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6. In view of the above order passed in WP.No.28460 of 2023, the other writ petition cannot be considered. Accordingly, the writ petition in WP.No.39046 of 2024 is also dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

07.11.2025

Neutral citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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