



W.A.(MD)No.248 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A.(MD)No.248 of 2023
and
C.M.P.(MD)No.3031 of 2023**

The Commissioner,
Madurai City Municipal Corporation,
Aringar Anna Maligai,
Madurai – 625 002.

... Appellant

Vs.

1.R.Alexandar

2.The Principal Secretary to Government,
Municipal Administration and Water
Supply (MCIV) Department,
Secretariat, Chennai.

3.S.Sekar

4.M.V.Murugesu Pandian

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD).No.4243 of 2020 dated 14.07.2021 on the file of this Court.



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For Appellant : Mr. K.K.Kannan

For Respondents : Mr.P.Gunasekaran for R1.
Mr.N.Satheeshkumar,
Addl. Government Pleader for R2.
Mr.D.Kirubakaran for R3 & R4.

JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2.The writ petitioner / Alexander was working as Assistant Engineer in Madurai Corporation. He was promoted to the post of Assistant Executive Engineer vide proceedings dated 13.11.2014 issued by the Commissioner, Madurai Corporation. Subsequently, vide Letter No.6839/MCIV/2015 – 2 dated 16.04.2015, the government directed cancellation of the panel. Pursuant thereto, the Commissioner, Madurai Corporation issued proceedings dated 23.04.2015 cancelling the promotion given to the following persons:

- “1.Thiru.S.Sekar, Junior Engineer*
- 2.Thiru.R.Alexzandar, Assistant Engineer*
- 3.Thiru.M.P.Manoharan, Assistant Engineer*



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4.Thiruu.M.Kamaram, Assistant Engineer;

5.Thiru.Muruges Pandian, Junior Engineer”

It is relevant to note that the writ petitioner herein is figuring at Serial No.2 above.

3.The other three persons mentioned above namely, Sekar, Manoharan and Muruges Pandian filed W.P.(MD)Nos.7048, 7049 and 7050 of 2015 challenging the cancellation order. The writ petition came to be allowed on 21.10.2019 in the following terms:

“11.For the above reasons, this Court is unable to sustain the order passed by the first respondent and the consequential order passed by the second respondent. Accordingly, these writ petitions are allowed and the impugned order passed by the first respondent, dated 16.04.2015 and the consequential order passed by the second respondent, dated 23.04.2015 are set aside insofar as it relates to the petitioners. The impugned orders shall be treated as void insofar it relates to the petitioners' promotion and unenforceable to affect their promotion. With regard to the other persons, who have not challenged the impugned orders, it is open to the respondents to prepare a new panel in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.”

Thereafter, Alexander filed W.P.(MD)No.4243 of 2020 for the very same



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relief which was sought by the other writ petitioners mentioned above.

The writ petition was partly allowed vide order dated 14.07.2021 in the following terms:

“9.From the above materials, it is seen that the respondents 3 & 4 were vigilant enough to challenge the proceedings of the first respondent, dated 16.04.2015, and proceedings of the second respondent, dated 23.04.2015 as early as in the year 2015 itself. This Court granted relief as prayed for on the facts and circumstances of the case. The petitioner did not challenge the seniority panel, dated 13.11.2014, which was cancelled subsequently by the proceedings, dated 23.04.2015. The proceedings of the first respondent directing the second respondent to cancel the panel, dated 13.11.2014, is dated 16.04.2015. For more than 5 years, the petitioner did not challenge the panel, dated 13.11.2014, for promotion to the post of Assistant Executive Engineer, wherein, he was placed below the third respondent. The said panel was cancelled by the proceedings dated 23.04.2015 as per the direction of the first respondent. The reason given by the petitioner that he did not challenge the panel, dated 13.11.2014, as the same was cancelled, is not acceptable and is without merits. No explanation was given by the petitioner for not challenging the seniority panel, dated 13.11.2014 in time. Therefore, the petitioner is not entitled for the relief of placing him above third respondent based on the seniority list, dated 12.01.2007. In the writ petitions filed by the third respondent one M.P.Manoharan and the fourth respondent in W.P(MD)Nos.7048



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to 7050 of 2015, this Court, by common order, dated 21.10.2019, considering the fact that no disciplinary proceeding was pending against the respondents 3 & 4 and Manoharan, held that cancellation of entire panel is erroneous. This Court held that the second respondent ought to have cancelled the panel only with regard to persons against whom disciplinary proceedings are pending on the date of panel. On the date of panel, no disciplinary proceeding was pending against the petitioner. In view of the same, the reason given in the common order, dated 21.10.2019, is applicable to the petitioner also.

10.For the above reasons, the proceedings dated 16.04.2015 and 23.04.2015 are quashed in respect of the petitioner alone. The petitioner is entitled to promotion as per the panel, dated 13.11.2014.

11.In the result, the writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.”

Questioning the same, this writ appeal has been filed by the Commissioner, Madurai City Municipal Corporation.

4.The learned standing counsel for the corporation reiterated all the contentions set out in the grounds of writ appeal and called upon this Court to set aside the order passed by the learned Single Judge.



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5.Per contra, the learned counsel for the writ petitioner endeavoured to convince that interference with the order of the learned Single Judge is not warranted. He pointed out that technically, Sekar and two others might belong to what is called as diploma stream, they were far junior to him. He pointed out that the learned Single Judge had only granted the relief who was granted relief to Sekar and two others.

6.We carefully considered the rival contentions and went through the materials on record. A mere look at the writ prayer would show that Alexander has challenged the proceedings dated 13.11.2014, the proceedings dated 16.04.2015 and the consequential order dated 23.04.2015. The writ petition came to be filed only in February, 2020.

7.As rightly pointed out by the learned standing counsel for the corporation, Alexander appears to have been a fence-sitter. By virtue of the orders dated 16.04.2015 and 23.04.2015, the promotion given to Sekar, Alexander, Kamaraj, Manoharan and Murugesu Pandian were cancelled. When the three other promotees chose to knock the doors of this Court, nothing stopped the present writ petitioner / Alexander to



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approach this Court or invoke the writ remedy. He chose to keep quiet.

After noticing that Sekar and two others have succeeded, Alexandar woke up and filed a fresh writ petition.

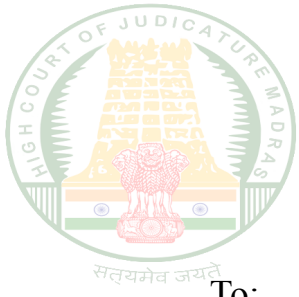
8.The learned standing counsel drew our attention to the reported in *1974 AIR 1974 2271 (P.S.Sadhasivasamy Vs. State of Tamil Nadu)* in support of his contention that in matters relating to seniority and promotion, challenge must be mounted within a period of six months. In this case, the challenge was mounted after a gap of close to five years. Alexander has to be non-suited only on the ground of laches even though we strongly feel that justice is on his side.

9.The order of the learned Single Judge is set aside and the writ appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.) & (K.R.S. J.)
16.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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The Principal Secretary to Government,
Municipal Administration and Water
Supply (MCIV) Department,
Secretariat, Chennai.



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