



W.P.(MD).No.5612 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.06.2025

CORAM

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.(MD).No.5612 of 2019
and
W.M.P.(MD).Nos.4437 and 4438 of 2019

Manikandan

.. Petitioner

Vs.

1.The District Collector,
Collectorate,
Theni,
Theni District.

2.The Assistant Director of the
Regional Town Panchayat,
Regional Office, Poothipuram Road,
Theni.

3.The Executive Officer,
Markayankottai Town Panchayat Office,
Uthamapalayam Taluk,
Theni District.

4.S.Prabakaran

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.1417/2018/Peroo2 dated 08.02.2019 passed by the Respondent No.1 and quash the same as illegal, consequently, directing the



W.P.(MD).No.5612 of 2019

Respondent Nos.1 to 3 to appoint the petitioner as an Office Assistant in the Respondent No.3's office based on the seniority list.

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For Petitioner : Mr.S.M.A.Jinnah
For R-1 to R-3 : Mr.N.Satheesh Kumar
Additional Government Pleader
For R-4 : No appearance

ORDER

This Writ Petition is filed seeking to quash the order of appointment passed in favour of S.Prabakaran, who is arrayed as the fourth respondent herein.

2. The case of the petitioner is that the petitioner is serving as a Sanitary Worker in Markayankottai Town Panchayat office from the year 2001 onwards. He is working in the very same post for a long period without any promotion or any other benefits. He is qualified for promotion to the next level post and he is in the 30th place of the final seniority list published on 01.01.2025.

3. According to the petitioner, he is qualified for promotion and he has been wantonly neglected and his genuine right to consideration of promotion has been thwarted by the administration in various ways. He had also sent



W.P.(MD).No.5612 of 2019

various communications and lodged complaints to several authorities including the Commission for Scheduled Castes and Scheduled Tribes.

4. The facts pleaded and admitted between the parties are that the petitioner is working from the year 2001 and he is having sufficient qualification for getting promotion. However, there is no vacancy for accommodating all those persons, who were cited as seniors eligible for promotion. The petitioner has also demonstrated before this Court that based on the various representations submitted by the Sanitary Workers of the Town Panchayats, the administration has decided to accommodate them in various posts including Driver. The letter addressed by the District Collector to the State Commission for Scheduled Castes and Scheduled Tribes dated 10.05.2023 reveals the fact that a policy decision was taken by the Municipal Administration to promote various eligible persons to the extent of 20%. The District Collector has also given a list of persons, who are eligible to be promoted. In the seniority list, though the petitioner is in 30th place, majority of the persons, who were seniors to him, are not eligible for getting promotion. However, he is the second person eligible to be promoted. He had come forward to challenge the appointment of the fourth respondent, who was appointed on compassionate grounds to the post of Office Assistant. According to the



W.P.(MD).No.5612 of 2019

petitioner, this post is to be accommodated for the petitioner. However, to avoid promoting the petitioner, the post has been filled up by the administration.

5. I have given anxious consideration to the submissions made on both sides.

6. A careful perusal of the impugned proceedings and also the records shows that the appointment given to the fourth respondent is in accordance with the rules and regulations of compassionate appointment. To mete out the contingency caused to the family of the deceased, who is the father of the fourth respondent, appointment has been given to the fourth respondent on compassionate grounds. Hence, I find no reason to interfere with the appointment. However, with regard to the promotional avenue of the petitioner, various grievances projected before this Court would show that several employees, who are working as Sanitary Workers, though eligible, were not able to get promotion due to non-availability of posts. Therefore, whenever the eligible posts become vacant, the official respondents are directed to accommodate the petitioner in the said post, since his service is nearly 25 years in the very same post and though he cannot seek promotion as a matter of right, consideration for promotion is a fundamental right. Hence, whenever eligible



W.P.(MD).No.5612 of 2019

vacancy arises for accommodating the Sanitary Workers, the petitioner shall be considered on priority basis.

7. With the above observations, this Writ Petition stands partly allowed.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To

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W.P.(MD).No.5612 of 2019

K.RAJASEKAR,J.

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W.P.(MD).No.5612 of 2019

19.06.2025