



W.P.(MD).No.12878 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.12878 of 2018

and

W.M.P(MD)Nos.11773 & 11774 of 2018

M.Anbu

... Petitioner

Vs.

- 1.The Secretary,
State of Tamil Nadu,
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai-600 009.
- 2.The Director,
Directorate of Town Panchayat,
Kuralagam,
Chennai-600 108.
- 3.The District Collector,
Collectorate,
Pudukkottai District.
- 4.The Assistant Director (Town Panchayat),
Thiruvarankulam (Union),
Thiruvarankulam,
Pudukkottai District.
- 5.The Executive Officer,
Keeramangalam Town Panchayat,
Pudukkottai District.

... Respondents



W.P.(MD).No.12878 of 2018

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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in respect of the impugned order issued by the third respondent vide his proceedings Na.Ka.No.Ng2/2214/2017 dated 09.05.2018 and its consequential orders and quash the same and direct the respondents to repay the amount recovered from his salary.

For Petitioner : Mr.S.I.Muthiah

For Respondents : Mr.S.R.A.Ramachandran

Additional Government Pleader

ORDER

The present writ petition has been filed by an employee of the fifth respondent Town Panchayat challenging the order passed by the third respondent herein, wherein, an order of demotion has been passed with a consequential direction for the recovery of the excess amount paid to him.

2. The petitioner herein was initially appointed as Water Pipe Maintainer on 13.09.2001 in the fifth respondent Town Panchayat. He was brought within the time scale of pay in the said post on 31.07.2006. On 29.07.2011 by way of proceedings of the Executive Officer of the Town Panchayat, promotion was granted to the writ petitioner to the post of driver with effect from 01.08.2011.



W.P.(MD).No.12878 of 2018

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3. According to the petitioner, he was driving two garbage tractors belonging to the Town Panchayat and he was working as a driver and drawing higher pay scale. Suddenly, under the impugned order dated 09.05.2018, the third respondent has passed an order of demotion, primarily on the ground that the post of driver is not a sanctioned post in the Town Panchayat. Further, a direction has been issued for recovery of the excess pay made to him. Challenging this order, the present writ petition has been filed.

4. According to the learned counsel for the writ petitioner, the petitioner was driving two garbage tractors of the fifth respondent Town Panchayat and he was actually employed as a driver. The order of demotion has been passed without conducting any enquiry. When the Town Panchayat possess two garbage vehicles, he should not have been reverted to the post of Water Pipe Maintainer merely on the ground that no such post has been sanctioned.

5. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that the Executive Officer of the fifth respondent Town Panchayat has passed the order of promotion on 29.07.2011 without



W.P.(MD).No.12878 of 2018

considering the fact that there is no sanctioned post for the post of driver.

When there is no such post, the order of reversion had to be passed and the petitioner would not be entitled to hold the post of a driver and he cannot receive salary in the said category.

6. Heard both sides and perused the materials available on record.

7. It is not in dispute that the fifth respondent Town Panchayat has no sanctioned post of driver. However, by mistake, the petitioner has been promoted by an order of the Executive Officer of the Town Panchayat on 29.07.2011 and he is working as a driver from the said date onwards. It is also not in dispute that he is operating two garbage tractors of the Town Panchayat for nearly 7 years. Therefore, the petitioner has been received salary in the post of driver after functioning as a driver. He belongs to D category.

8. There is no mistake or any misrepresentation on the part of the petitioner in getting promotion as a driver. He is not aware of the fact that there was no sanctioned post and it has been discovered after a period of 7 years. In such circumstances, the order of recovery passed by the third respondent herein is liable to be set aside. However, considering the fact that there is no



W.P.(MD).No.12878 of 2018

sanctioned post of driver for the fifth respondent town panchayat, it may not be legally possible for the petitioner to continue in the said post.

9. In view of the said deliberations, this Court is inclined to pass the following orders:

a) The order of demotion passed by the third respondent herein is confirmed;

b) the order of recovery passed by the third respondent is hereby set aside.

c) In future, if any driver post is sanctioned, the petitioner would be considered on priority basis for the said post.

10. The writ petition stands partly allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are closed.

12.09.2025

Index : Yes / No
Internet: Yes / No
NCC : Yes / No
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R.VIJAYAKUMAR,J.,

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W.P.(MD).No.12878 of 2018

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