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WP No. 8929 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-02-2026

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THE HON'BLE MR JUSTICE M.DHANDAPANI

WP No. 8929 of 2024

and WMP.Nos.9950, 9952 & 9957 of 2024

K.Muthukumar

Assistant, Tiruppur City Municipal Corporation,
Tiruppur 638 601

..Petitioner(s)

Vs

1. The Commissioner

Tiruppur City Municipal Corporation, Tiruppur
638 604

2. The Director Of Municipal Administration

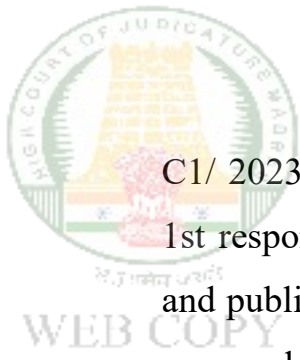
No. 75 Santhome High Road, Mrc Nagar, Raja
Annamalaipuram, Chennai 28

3. The Secretary To Government

Municipal Administration And Water Supply
Department, Secretariat Chennai 9

..Respondent(s)

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings issued by the 1st respondent in Na.Ka.No. 5176/



C1/ 2023 dated 21.02.2024 and quash the same and consequently to direct the 1st respondent to restore the name of the petitioner in the said panel prepared and published by the 1st respondent dated 21.02.2024 by restoring the seniority over and above Tmt. S.Baby Nirmala and below Tmt .R. Mohanambal with all service and monetary benefits from the date of promotion of the Junior on 22.02.2024 within a reasonable period as may be fixed by this Honble court and to pass

For Petitioner(s): Mr.T.Ranganathan

For Respondent(s): Mr.C.Selvaraj, AGP For R2 and R3
Mr.D.R. Arun Kumar For R1

ORDER

The impugned proceedings issued by the first respondent in Na.Ka.No. 5176/ C1/ 2023 dated 21.02.2024, is put under challenge in the present Writ Petition. Further, the petitioner has sought for a direction to the first respondent to restore his name in the said panel prepared and published by the first respondent dated 21.02.2024 by restoring the seniority over and above Tmt. S.Baby Nirmala and below Tmt .R. Mohanambal with all service and monetary benefits from the date of promotion of the Junior on 22.02.2024, within a reasonable period as fixed by this Court.

2. Heard the learned counsels appearing on either side.



3. The brief facts of the case is as follows:

3.1. The petitioner joined the respondent Municipality as NMR in the year 1992 and acquired various levels of promotion and he is now working in the Hosur City Municipal Corporation as Assistant from 2019 and his next promotion is to the post of Superintendent as per the Tamil Nadu Municipal Corporation General Sub-ordinate Service Rules, 1996 [for brevity, Municipal Rules] issued in G.O.(Ms) No.237, MAWS Department, dated 26.09.1996. The first respondent has prepared and published the provisional panel for the year 2023-24, however his name was not found place and hence, he raised his objections. The first respondent issued the impugned proceedings in Na.Ka.No.5176/C1/2023 dated 21.02.2024 stating that the petitioner is not entitled for promotion on the ground that charge memo dated 09.10.2023 is pending against him. According to the provisions under Rule 24 of the Municipal Rules issued in G.O. No.237 dated 26.09.1996, the panel should be prepared every year, as on 1st April of the year, in respect of the posts for which promotions should be made in accordance with seniority unless, the promotion of a member has been withheld as a penalty or the member does not possess the qualification prescribed in the Special Rules for the post. Therefore, the impugned order of the first respondent dated 21.02.2024 without considering the name of the petitioner is unsustainable, as the crucial date is 01.4.2023 where no charge memo was issued against the petitioner and the charge memo dated 09.10.2023 issued under Rule 8(2) of the Coimbatore City Municipal



Corporation Services (Discipline & Appeal) Rules, 1986 does not disqualify the petitioner from being considering for promotion to the post of Superintendent in view of the provisions under Rule 24 of the Municipal Rules and the same has been followed by the Government in G.O.(2D) No.2, MAWS Department dated 18.01.2006 and G.O.(2D) No.24, MAWS Department dated 12.04.2013 and therefore, the impugned order dated 21.02.2024 is contrary and unsustainable in the eye of law. Hence, the present petition has been filed for the aforesaid reliefs by the petitioner.

4. The learned counsel for the petitioner submitted that on the crucial date viz., 01.04.2023, i.e., the date for preparation of provisional promotion panel list, no charge memo was pending against the petitioner and the subsequent charge memo dated 09.10.2023 cannot be held as a bar as against the petitioner for promotion. He drew the attention of this Court to the case in ***G.Ushrani Vs. The secretary to Government, Revenue Department in W.P,(MD) No.4473 of 2005 dated 03.04.2006*** wherein the Court has held that if there is no charge memo as on the crucial date, the individual is entitled for promotion and even if any subsequent charge memo or punishment will not deprive the promotion. Hence, he prayed to set aside the impugned order of the first respondent.



5. Per contra, learned counsel for the 1st respondent would submit that provisional and final seniority list were published on 25.08.2023 and 15.09.2023 and since the charge memo dated 09.10.2023 is pending against the petitioner, he was not granted promotion by the first respondent in his proceedings dated 21.02.2024. He further submitted that the first respondent has rightly passed the order dated 21.02.2024 following the provisions as per Schedule XI of Clause II (8) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and hence, the same warrants no interference and prayed for dismissal of the Writ Petition.

6. I have considered the rival submissions made by the respective learned counsels and also perused the materials available on record.

7. The facts is not disputed by the petitioner. Admittedly, the petitioner entered the service as NMR in the respondent Municipality in the year 1992 and acquired various levels of promotion and lastly promoted as Assistant and his next promotion is to the post of the Superintendent. The provisional promotion panel for the said post was published on 25.08.2023 to fill 14 Superintendent posts vacant for the year 2023-24 and objections were received and final seniority list was published on 15.09.2023. It is the contention of the petitioner that his name was found in the second place fit for promotion and as per the provisions of Rule 24 of the Municipal Rules, on the crucial date of preparation



of promotional panel list i.e., on 01.04.2023, there was no charge memo against the petitioner but however after 7 months, i.e., on 09.10.2023, the charge memo was issued against him and the impugned order was passed by the first respondent on 21.02.2024 stating that the petitioner was not entitled for promotion on the ground of pendency of charge memo dated 09.10.2023. Now, the issue arises for consideration before this Court is whether the petitioner is entitled for promotion on the date of actual promotion though his name was found place in the provisional panel list for the year 2023-24. It is pertinent for this Court to refer to Schedule XI of Clause II (8) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, which reads as under:

“8)Pendency of charges framed under Rule 17(b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules against a member of a service shall be a bar for inclusion of his name in the approved list.”

8. As per the aforesaid Rule, if any charge is framed under 17(b) of the Tamil Nadu Civil Services (D & A) Rules against a member of a service shall be a bar for inclusion of his name in the approved list. Though the petitioner's name was included in the promotional panel for the year 2023-24, however at the time of consideration for actual promotion, charge memo is pending and hence, the petitioner is not entitled for promotion.



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9. In view of the foregoing reasons, the Writ Petition stands dismissed.

Consequently, connected Miscellaneous Petitions are closed. There shall be no order as to costs. However, there shall be a direction to the respondent concerned to conclude the disciplinary proceedings as against the petitioner within a period of three months from the date of receipt of a copy of this order. It is also made clear that if the charges are not proved as against the petitioner, then the petitioner is entitled for promotion from the date of his actual entitlement.

06-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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M.DHANDAPANI, J.

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