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WP No. 452 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 16-02-2026

Pronounced on: 20-02-2026

CORAM

THE HONOURABLE MR.JUSTICE T. VINOD KUMAR

**WP No. 452 of 2021 and
WMP Nos.534 and 6048 of 2021**

M.Ponraj Selvakumar,
Superintendent,
Commissioner of Municipal Administration,
Raja Annamalaipuram,
Chennai- 600 028.

Petitioner

Vs

1. The Additional Chief Secretary
to Government,
Municipal Administration and Water
Supply Department,
Fort.St.George, Chennai- 600 009.

2.The Secretary to Government,
Personnel and Administrative Reforms Department,
Fort.St.George,
Chennai- 600 009.

3.The Commissioner of Municipal Administration,
Urban Administrative Building,
Raja Annamalaipuram, Chennai- 600 028.

4.Mrs.D. Malligha
Municipal Commissioner Grade- I
Srivilliputhur Municipality,
Srivilliputhur- 626125
Virudhunagar District.

5.Mr.M.Saravanakumar



Municipal Commissioner Grade- I
Cumbum Municipality
Cumbum 625 516,
Theni District

6.Mr.C.V.Ravichandran
Municipal Commissioner Grade- I
Poonamallee Municipality,
Poonamallee- 600056
Tiruvallur District.

Respondents

PRAYER Writ Petition filed under Article 226 of the Constitution of India, calling for the records of the Proceedings of the 1st Respondent made in GO (D) No.383 Municipal Administration and Water Supply (ME- 1) Department dated 12.11.2020 and the order of the 3rd Respondent made in ROC.No. 10438/2016/C1, dated 12.11.2020 and quash the same and consequently direct the 3rd Respondent to send the Petitioner herein for deputation to the post of Municipal Commissioner Grade- I in any existing vacancy.

For Petitioner(s): Mr.S.Thirumavalavan
For Respondent(s): Mr.V.Veluchamy,
Additional Government Pleader
for R1 to R3
Mr.M.Ravi for R4 to R6

ORDER

Heard learned counsel for the petitioner, learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 and Mr.M.Ravi, learned counsel appearing on behalf of the private respondents R4 to R6 and perused the record.

2. The brief facts of the case of the petitioner is that, he had joined the service of the respondents as Junior Assistant in the year 1988 and was promoted to the post of Superintendent on 27.02.2015; that the official



respondents while considering the names for being sent for training as Municipal Commissioner Grade I, from and among the employees of Municipal Administration, did not recommend the name of the petitioner, even though he is senior to all the three candidates whose names have been recommended and approved under the impugned proceedings; and thus, the impugned Government Order, GO (D) No.383, Municipal Administration and Water Supply (ME- 1) Department dated 12.11.2020, is liable to be quashed.

3. The petitioner further contended that by deputing a Superintendent working in the third respondent Department for a period of two years on training to work as the Municipal Commissioner Grade I, makes him eligible for being appointed to the post of Municipal Commissioner of Selection Grade; that insofar as the services of Municipal Commissioners are concerned, the same are governed by Special Rules for the Tamil Nadu Municipal Commissioners Services; that in order to be eligible for being sent on deputation, one should have put in not less than 5 years of service in the post of the Superintendent to the office of the Directorate of Municipal Administration; and that not more than three Superintendents are to be deputed at any given point of time.

4. It is the further case of the petitioner that already two Superintendents



were drawn to work as Municipal Commissioner Grade I on deputation basis; and that by the impugned G.O, the respondents are seeking to depute three more Superintendents; and that the said action, is contrary to proviso to Clause (ii) to Rule 6 of Tamil Nadu Commissioners Service Rules.

5. The petitioner further contended that in order to prepare the annual list of approved candidates who have completed five years of service in the post of Superintendent, Rule 3 of the Rules prescribes the crucial date to be 15th March every year; and that the private respondents who are deputed under the impugned G.O, did not have requisite qualification of service and as such, the respondents could not have included the names of the private respondents in the panel list, much less by granting relaxation of the mandatory qualifications.

6. It is the further case of the petitioner that though on the date when the respondents prepared the annual list of approved candidates for being appointed on deputation to work as Municipal Commissioner Grade I, departmental proceedings were pending against him, since the special rule does not impose any bar to include the name of an employee who is facing charges for being sent on deputation, the respondents could not have excluded the petitioner for being included in the annual list for being appointed as Municipal Commissioner Grade I on deputation for two years.



7. It is the further case of petitioner that the respondents while preparing the panel including the names of the private respondents, did not even consider that the sixth respondent who's name is recommended for deputation, does not have the qualifying period of two years on deputation to complete the training / deputation, thereby making the entire selection, a futile exercise as on completing the training, the sixth respondent would not be able to make use of the training obtained by him as he would retire even before the completion of said training.

8. On behalf of the petitioner, it is also contended that the process of selection from Superintendents for being sent on deputation for training as Municipal Commissioner Grade I, is whimsical as there is no valid justification to exclude the immediate junior to the petitioner in the panel list even though no disciplinary proceedings were pending against him/her on the crucial date or even thereafter.

9. The petitioner further contends that the entire process of preparation of the annual list of approved candidates for being appointed to the post of Municipal Commissioner Grade I on deputation for a period of two years, smacks of transparency and is contrary to the special rules. It is the further case



of the petitioner that the respondents while seeking to deny the inclusion of the petitioner for being appointed on deputation to the post of Municipal Commissioner Grade I, however, found him eligible for being sent on deputation to Election Commission of India, which shows the respondents adopting double standards.

10. Contending as above, the petitioner seeks for quashing of the impugned G.O with a consequential direction to the respondents to appoint the petitioner to the post of Municipal Commissioner Grade I on deputation for a period of two years.

11. Separate counters affidavits have been filed by the official respondents and the private respondents.

12. The official respondents by counter affidavit while denying the writ averments, have contended that presently 24 posts of Municipal Commissioner Grade I posts are vacant and only 7 Municipal Commissioners Grade II are qualified for the post of Municipal Commissioner Grade I; and that various Central and State Government schemes in force are being implemented in various Municipalities without Administrative Head, due to which, the schemes are not being properly implemented; and that for the said reason, it has become necessary to have Municipal Commissioner primarily to monitor the progress of



various schemes; and that at the relevant point of time, it had also become essential to fill up the post of Municipal Commissioner to take necessary preventive measures to control the spread of COVID-19 Pandemic.

13. The respondents 1 to 4 further contended that the preparation of annual list of Superintendents for deputation is to be undertaken on seniority basis; that the petitioner and two other candidates who are senior to the private respondents are all facing disciplinary action under the [Tamil Nadu Civil Services \(Discipline and Appeal\) Rules, 1955](#) (for short D & A Rules, 1955); and that insofar as the immediate junior to the petitioner is concerned, her name has been recommended for appointment as Municipal Commissioner Grade I and the same is pending approval.

14. The official respondents further contended that since, the disciplinary proceedings / action was pending against the petitioner and two other seniors above the petitioner, their names have not been recommended in the proposal sent to the Government for appointment to the post of Municipal Commissioner Grade I on deputation basis, and insofar as the first candidate among the Superintendents is concerned, he was not willing to work as Municipal Commissioner Grade I on deputation basis.



15. The respondents further contended that taking into consideration the aforesaid aspects, the respondents have recommended to the Government to appoint the private respondents herein as Municipal Commissioner Grade I on deputation basis, by relaxing Rule 6 of the Tamil Nadu Municipal Commissioners Service Rules.

16. The respondents by the counter affidavit further contended that an individual can be appointed to the post of Municipal Commissioner Grade I by promotion or by recruitment by transfer or by deputation, who possesses the prescribed qualification on 15th March of every year; and that the Government vide its letter dated 17.04.2015 on the basis of G.O.Ms.No.256, dated 25.04.1988 among others, has prescribed that if charges are pending against an individual, he would not be eligible for deputation; that in the instant case, charges under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules were pending against the petitioner; and thus, he is not eligible for deputation.

17. Insofar as the claim of the petitioner that the sixth respondent not having minimum required period of deputation is concerned, it is contended that on the crucial date i.e., 15th March of the year, the sixth respondent had two years of service, and for the said reason, the said individual name has been considered for being sent on deputation.



18. The Respondents further contended that the post of Municipal Commissioner Grade I is an Executive post governed by the Tamil Nadu Municipal Commissioners Service Rules; that as the petitioner while working as Superintendent was facing charges, instead of placing him under suspension he has been deputed to work in Election Commission of India, being a non-focal post; that the immediate junior to the petitioner had been appointed as Municipal Commissioner Grade-II vide G.O.(3D) No.11, Municipal Administration and Water Supply Department, dated 10.03.2020; that the said individual did not join the duty as Municipal Commissioner Grade-II; and that the Commissioner thereafter has requested the Government to appoint the said individual in the post of Regional Directorate of Municipal Administration, Salem.

19. By the counter affidavit, the official respondents further contended that as disciplinary action under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules was pending against the petitioner, he cannot claim that his name ought to have been included in the panel list for being sent on deputation as Municipal Commissioner Special Grade. Contending as above, the official respondents seek for dismissal of the writ petition.



20. On behalf of the private respondents, it is contended that since, the petitioner was facing disciplinary action, he cannot be considered for being included in the annual list for being sent on deputation; that the appointment as Municipal Commissioner Grade I on deputation, is not a promotional post, as on completion of the deputation tenure, i.e., two years period, the individual would have to revert back to the position of Superintendent in his parent department; that as per the proviso to Clause (ii) of Rule 6, the individuals who are deputed to work as Municipal Commissioner Grade I are not entitled to draw the salary of the Municipal Commissioner Grade I, but are entitled to draw the pay applicable to the post of Superintendent during the period of deputation; and that the said deputation cannot be considered as promotion, except enhancement of their skills by undergoing training in order to become eligible for being considered and appointed to the post of Special Grade Municipal Commissioner.

21. On behalf of the private respondents, it is further contended that the petitioner on account of facing disciplinary action, is not eligible to be considered for being appointed to the post on deputation till disposal of the disciplinary proceedings, and cannot claim of he being eligible to be appointed as the Municipal Commissioner Grade I on deputation, even though for training, as such training is only intended to make the individual eligible for being



appointed as Municipal Commissioner subsequently, being a promotional avenue.

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22. On behalf of the private respondents, it is also contended that since, the petitioner was facing charges, concerned authority is required to exercise discretion under Rule 3(a) of Special Rules while granting approval; and that taking note of the fact that the petitioner is facing disciplinary action, the said authority included the names of the private respondents in the annual list for being appointed on deputation.

23. On behalf of the private respondents, it is also contended that since, the deputation is not a promotion, as no monetary benefit accrues, such deputation would have to be considered as a posting to discharge the functions of the Municipal Commissioner Grade I; and that the petitioner cannot seek for posting as a matter of right, particularly, on account of pendency of disciplinary proceedings.

24. On behalf of the private respondents, it is further contended that since, the private respondents are only deputed to work as Municipal Commissioner Grade I, the deputation period is considered as training without any monetary benefits, no prejudice is caused to the petitioner and the petitioner has no *locus*



standi to challenge the impugned proceedings by which the private respondents were sent on deputation to work as Municipal Commissioner Grade I.

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25. On behalf of the private respondents, it is contended that if the claim of the petitioner for deputing him to the post of Municipal Commissioner Grade I, is accepted, the same would amount to rewarding the petitioner, making him eligible for promotion to the post of Selection grade Municipal Commissioner, while he is not eligible for not being considered for promotion or any other higher responsibilities on account of pendency of departmental action within the department itself. Contending as above, the private respondents seek for dismissal of the writ petition.

26. I have taken note of the respective submissions advanced by the learned counsel appearing for the parties.

27. Though on behalf of the petitioner it has been vociferously contended that on account of inclusion of names of the private respondents in the annual list for deputation and exclusion of the name of the petitioner from being sent on deputation to work as Municipal Commissioner Grade-I, thereby requiring the impugned G.O. to be quashed, it is to be noted that there is no monetary benefit while an individual working as Superintendent, is deputed to work as



Municipal Commissioner Grade-I. However, such deputation would result in the said Superintendent gaining eligibility for being appointed to the post of Selection Grade Municipal Commissioner, which is admittedly a promotional avenue with higher emoluments.

28. The mere fact of the deputation period tenure being treated as training under the special rules and also on completion of the training, the individual, requiring to revert back to the parent department in the position of the Superintendent, however results in such individual acquiring the eligibility for being considered for promotion by way of appointment to a higher post. That being so, the deputation though is not a promotion in strict sense, is to be considered as intended for enhancing the skills of the individual who is deputed to work as Municipal Commissioner Grade I, thereby making them eligible for selection and appointment to the post of Special Grade Municipal Commissioner.

29. Further, it is to be noted that Rule 3 of the Special Rules prescribes for drawing of annual list of approved Candidates for appointment and the crucial date for such preparation / drawing up the Annual List. The use of the word “Approved Candidates for appointment” under the Rules, makes it clear that the concerned authority being conferred with the discretionary power to include or



exclude an individual from the annual list for appointment to the categories in service by promotion or by recruitment by transfer or by deputation. Since, the approving authority being conferred with the power for appointment in any of the three methods, the said authority cannot ignore the fact of pendency of disciplinary proceedings against an individual while approving the list of candidates for appointment either by promotion or by recruitment by transfer or by deputation.

30. Admittedly, as per D & A Rules, 1955 pendency of any disciplinary proceedings, disentitles such a candidate from being considered for promotion. Though in the case of the deputation under Rule 6 of the Special Rules, the Superintendent who is sent on deputation is not entitled to draw the pay scale applicable to the post of Municipal Commissioner and is entitled to draw the pay applicable to the post of Superintendent only, during the deputation period, mere restriction to draw the pay fixed to the post or the condition imposed to draw the pay scale of the post the candidate was holding before being sent on deputation, does not result in the post held by them as equal to that of the post held by them prior to deputation. Thus, the approved candidates who are deputed to work for a period of two years are to be considered as working in a higher post, though without monetary benefit. Under the D & A Rules, 1955, the restriction is imposed that the Government servants /candidate facing



disciplinary action, is not eligible for being considered for inclusion of his name in the panel or in the promotion or for being granted promotion till the said disciplinary proceedings are closed.

31. Admittedly, the petitioner is facing disciplinary action under Rule 17(b) of the D & A Rules, 1955, thereby making him ineligible for being considered for any promotion from his present post. That being so, the petitioner by seeking inclusion of his name in the approved list of candidates for appointment by deputation to the post of Municipal Commissioner Grade I, is seeking to achieve what he cannot achieve directly. The effect of the relief sought for by the petitioner in the present writ petition, if accepted would have a disastrous effect, viz., the petitioner while undergoing disciplinary proceedings in his present position as Superintendent, not only works as Municipal Commissioner Grade I which is a higher post, but also acquires the required eligibility to be considered for the higher post as Special Grade Municipal Commissioner, resulting in disciplinary proceedings initiated against him which are penal in nature becoming a rewarding proceedings, which cannot be the intent or purport of any legislation or the Rules made thereunder.

32. In so far as the claim of the petitioner that since, the special rule does not impose any bar or restriction for considering the candidature / individual



facing disciplinary action for being sent on deputation, it is to be noted that the special rules are not exhaustive rules dealing with all aspects in relation to Municipal Commissioner services and for the said reason, necessarily it has to fall back on the provision under the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (in short, Act, 2016) and D & A Rules, 1955.

33. Further, it is also to be noted that the special rules would have overriding effect only when there is inconsistency with the provisions of the Act and the other Rules framed by the State Government. Inasmuch as it is not shown to this Court that Special Rules, provides for consideration of the candidate for being included in the approved list for deputation, despite pendency of disciplinary proceedings, this Court is of the view that the restriction imposed under the D & A Rules, would have to be read along with the Special rules and inasmuch as no inconsistency is pointed out between the Special Rules and the Act/Rules, the claim of the petitioner to the contrary has to fail.

34. As noted herein above, since, the petitioner, as per D & A Rules having attracted disqualification for being considered for promotion, the said disqualification would continue to be applicable even in respect of the



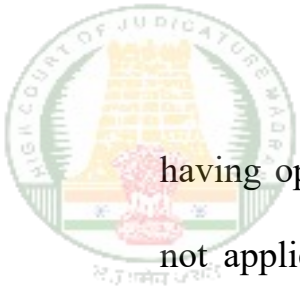
appointment by way of deputation as the effect of such deputation would make him otherwise eligible for promotion at a later point of time.

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35. The fact of the petitioner being sent on deputation to Election Commission of India earlier, it is to be noted that while pending disciplinary action, the employee can be placed under suspension or can be directed to work in non-focal post. Since, the respondents instead of placing the petitioner under suspension, having taken a decision to depute him to work in a non-focal post, that by itself cannot be construed as the petitioner being eligible for appointment by deputation to the post of Municipal Commissioner Grade I, as the said post involves interaction with the general public and also dealing with the public money.

36. It is also to be noted that the Government vide G.O.Ms.No.256, Personnel and Administrative Reforms (FR.II), Department, dated 25.04.1988, had prescribed the norms to be followed strictly while deputing Government servant in foreign service and one of the norms prescribed in the aforesaid G.O is that if the charges are pending, the authority should not select the individual for deputation.

37. Though it is contended that H.R Department and Law Department



having opined that the aforesaid G.O and the clarification dated 17.04.2015 is not applicable to in relation to the respondents department, a reading of the aforesaid G.O firstly does not show that the same is in relation to the any particular department, but is issued under Fundamental Rules 110 to 114. Secondly, the purport of the aforesaid G.O also finding its place in D & A Rules, 1955, it is not open for the petitioner to contend that he is not governed by the provisions of Act, 2016 or D & A Rules, 1955. Thus, the challenge to the impugned G.O. on this ground, also has to fail.

38. Insofar as the claim of the petitioner that all the selected candidates not having the required / prescribed qualification as per the special Rules, it is to be noted that Act 2016 confers power on the Governor to grant relaxation of the experience qualification and the Government having granted exemption from the required / prescribed qualification, the challenge of the petitioner to the impugned notification on this ground also is without any merit and is liable to be rejected.

39. Thus, considered from any angle, the present writ petition as filed is without any basis, devoid of merit, and is liable to be rejected. Accordingly, the writ petition is dismissed. No order as to costs. Consequently, connected miscellaneous petitions are closed.



20-02-2026

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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Pre-Delivery Order made in
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