

W.A.(MD)No.990 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 03.10.2024

PRONOUNCED ON : 24.10.2024

CORAM

THE HON'BLE MR.JUSTICE **C.V.KARTHIKEYAN**
AND
THE HON'BLE MS.JUSTICE **R.POORNIMA**

W.A.(MD)No.990 of 2018

M.Palanisamy

... Appellant

vs

1.The Director of Town Panchayats,
Kuralagam, Chennai 600 108.

2.The District Collector,
Karur District, Karur.

3.The Executive Officer,
Punjaipugalur Town Panchayat,
Karur District.

4.M.Meena

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 12.03.2015 passed in W.P(MD)No.4507 of 2014.



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For Appellants : Mr.A.Maheswaran
for Mr.R.Kathiresa Perumal
For R1 to R3 : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.M.Senthil Ayyanar
For R4 :Mr.AN.Ramanathan

JUDGMENT

(Judgment of this Court was delivered by **C.V.KARTHIKEYAN, J.**)

The Writ Petitioner in W.P.(MD)No.4507 of 2014 aggrieved by a common order passed in the said Writ Petition and in W.P.(MD)No.10845 of 2011 which had been filed by the fourth respondent, has filed the present Writ Appeal.

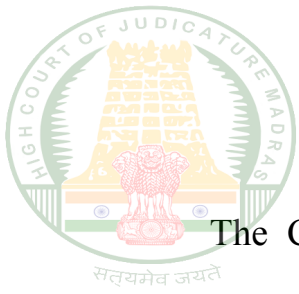
2.W.P.(MD)No.4507 of 2014 had been filed by the appellant herein in the nature of a Certiorari seeking records relating to an order issued by the third respondent in the Writ Petition, the Executive Officer, Punjaipugalur Town Panchayat in Karur District dated 25.02.2014 and to quash the same.



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3.This Writ Petition had been heard along with W.P.(MD)No.10845 of 2011 which had been filed by the fourth respondent again in the nature of a Certiorarified Mandamus seeking records relating to an order passed by the third respondent therein, the Executive Officer, Punjaipugalur Town Panchayat in Karur District, dated 23.08.2011 promoting the fifth respondent therein/the appellant herein/the Writ Petitioner in W.P.(MD)No. 4507 of 2014 to the post of Public Health Maistry or Sanitary Maistry in the said Panchayat and to quash the same and to direct the respondents 1 to 3 therein to promote the petitioner in W.P.(MD)No.10845 of 2011 to the post of Public Health Maistry or Sanitary Maistry.

4.The learned Single Judge had passed a common order, dated 12.03.2015 in both the Writ Petitions and also in Cont.P.(MD)No.408 of 2014, which had been filed by the appellant herein and had dismissed W.P. (MD)No.4507 of 2014. The learned Single Judge had also observed that since the promotion given to the appellant herein had been cancelled by way of passing a reversal order, W.P.(MD)No.10845 of 2011 filed by the fourth respondent herein had become infructuous and the same was also dismissed.

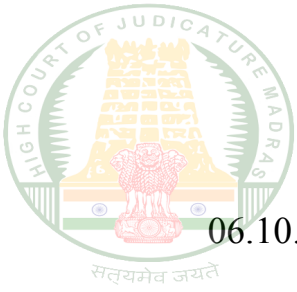


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The Contempt Petition was closed. Questioning the dismissal of W.P. (MD)No.4507 of 2014, the Writ Petitioner therein had filed the present Writ Appeal.

5.The appellant, M.Palanisamy was initially appointed as NMR in Town Panchayat service in the year 1987. His services had been regularised in the post of Motor Pump Operator with effect from 23.06.2006. He was posted at Aravakurichi Town Panchayat in Karur District. According to him, the post of Pump Operator is categorised as basic service of Town Panchayat services. He claimed that the next promotional avenue was Sanitary Maistry/Sanitary Supervisor. He had sought such promotion. But, however, complaining that his junior had been promoted, he had filed W.P. (MD)No.1685 of 2008 in which, an order was passed on 17.12.2008 directing the respondents therein to consider his claim for promotion.

6.He further claimed that the Executive Officer of Aravakurichi Town Panchayat had issued proceedings on 18.05.2009 stating that the promotion would be considered, when vacancy arose. Subsequently, he was transferred to Punjaipugalur Town Panchayat by proceedings dated



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06.10.2009. He was then promoted to the post of Sanitary Supervisor by the proceedings of the third respondent, the Executive Officer, Punjaipugalur Town Panchayat, by proceedings dated 23.08.2011. He was then transferred to Puliur Town Panchayat owing to vacancy in the post of Sanitary Supervisor. He was then re-transferred to Punjaipugalur Town Panchayat in Karur District on 21.11.2013, as Sanitary Supervisor. At that time, the third respondent, the Executive Officer, Punjaipugalur Town Panchayat in Karur District, issued the order impugned in the Writ Petition, dated 25.02.2014 reverting him back to the post of Water Supply Pump Operator. This order was challenged in the Writ Petition filed by him.

7.The fourth respondent in the Writ Appeal, M.Meena had filed W.P. (MD)No.10845 of 2011 questioning the proceedings of the third respondent, the Executive Officer, Punjaipugalur Town Panchayat dated 23.08.2011 by which the appellant herein had been promoted to the post of Sanitary Supervisor. She claimed that he was ineligible to be so promoted and on the other hand, she was eligible.

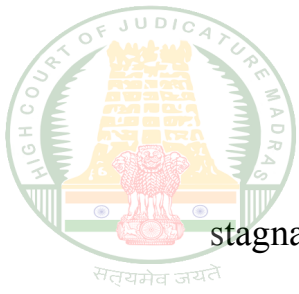


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8.Both these Writ Petitions and also a Contempt Petition filed by the appellant were taken up together by the learned Single Judge and by a common order, dated 12.03.2015, the Writ Petition filed by the appellant in W.P.(MD)No.4507 of 2014 was dismissed, which in effect, upheld the reversion of the appellant from the post of Sanitary Supervisor back to the post of Water Supply Pump Operator. This consequently meant that M.Meena, the petitioner in W.P.(MD)No.10845 of 2011/fourth respondent herein was promoted to the post of Sanitary Maistry/Sanitary Supervisor.

9.Heard the arguments advanced by Mr.A.Maheshwaran, learned Counsel appearing for the Writ Appellants, Mr.Veerakathiravan, learned Additional Advocate General assisted by Mr.M.Senthil Ayyanar, learned Government Advocate appearing for the respondents 1 to 3 and Mr.AN.Ramanathan, learned Counsel appearing for the fourth respondents.

10.It is the main contention of the learned Counsel for the appellant that it is a cardinal principle of service jurisprudence that there should be a promotion avenue for every Government servant and there cannot be



stagnation throughout the period of service. It was contended that the appellant who was working as Water Pump Operator had been correctly promoted as Sanitary Supervisor and wrongly reverted back.

11.The learned Additional Advocate General however contested that particular fact. According to the learned Additional Advocate General, the feeder post for promotion to Sanitary Maistry were Public Health Workers or Sanitary Workers and Scavengers or Sweepers or Thottis. It had been contended that the appellant as a Motor Pump Operator cannot therefore be promoted as Sanitary Maistry or Sanitary Supervisor and that he had been wrongly promoted and on realising that mistake, he had been correctly reverted back to his original post.

12.The learned Additional Advocate General pointed that there has been reversion from the promotional post of all individuals who had been similarly promoted. It was contended by the learned Additional Advocate General that the appellant will have to be promoted as Junior Assistant, but only in accordance with seniority and an assurance was given out that if there is a vacancy and if the appellant was the senior most to be considered



to be promoted to the post of Junior Assistant in that vacancy and that certainly the respondents would promote him. It had also been contended that the Town Panchayat now become a Municipality and therefore, the Rules have changed, but the appellant will have to await his turn in accordance with seniority for being promoted. In this connection, the learned Additional Advocate General also produced the seniority list maintained by the respondents and stated that in accordance with the seniority list, promotion would be granted.

13.The learned Counsel appearing for the fourth respondent contended that the appellant had been wrongly promoted and correctly reverted back and that the fourth respondent had been correctly promoted. He therefore urged that the Writ Appeal should be dismissed.

14.We have carefully considered the arguments advanced and perused the material records.

15.The Writ Appellant had originally joined as NMR in Town Panchayat Services in the year 1987. His services had been regularised in



the post of Pump Operator with effect from 23.06.2006. He was then posted to Aravakurichi Town Panchayat in Karur District. He sought promotion to the post of Sanitary Maistry/Sanitary Supervisor. The feeder post for the post of Sanitary Maistry had been stipulated in the Tamil Nadu Town Panchayat Establishment (Qualification and Recruitment of Office Assistants) Rules, 1988. It is as follows:

<i>“Class-I, Category -1</i>	<i>: Office Assistant in Office</i>
<i>Class-II, Category-1</i>	<i>: Public Health Maistries & Sanitary Maistries</i>
<i>Category -2</i>	<i>:Public Health Workers or Sanitary Workers or Scavengers or Sweepers or Thottis</i>
<i>Class – III</i>	<i>:Gardener, Watchman, Waterman-cum- Gardener, Waterman-cum-Watchman turn Cook”</i>

16.It is thus seen that the post of Sanitary Maistry comes under category I of Class II. The feeder posts are the posts in Category-II of Class-II. They are Public Health Worker or Sanitary Workers or Scavengers or Sweepers or Thottis. The appellant herein had been working as Water Pump Operator. His post is therefore not a feeder post for promotion to Sanitary Maistry/Sanitary Supervisor. The official respondents have



wrongly promoted him and had correctly reverted back him to the post.

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17.The learned Counsel for the appellant fervently raised a plea that some promotion should be granted to the appellant, as he had been languishing in the post right from the time when he joined. But, unfortunately, we also have to consider those who are similarly awaiting promotion and who are working in the actual feeder post and who are alone eligible for promotion. The promotion avenue available for the appellant is to be promoted as Junior Assistant. He cannot be so promoted overlooking the credentials of his seniors. The said promotion will have to be done only on the seniority basis.

18.The learned Additional Advocate General presented before us the seniority list. There are three individuals, who are senior to the appellant herein and who are now working in the very same post as the appellant is working and who are eligible to be promoted as Junior Assistant. If vacancy arises in the post of Junior Assistant to be filled through promotion and if the appellant is eligible, then we do not find any reason why the official respondents would deny him that opportunity. As on date, that



promotional avenue had not yet arisen. The Court cannot step into the shoes of the Executive and issue a direction for promotion of the appellant overriding other similarly placed individuals, who also awaiting promotion. They all have to be considered in accordance with the vacancy which arise.

19.The learned Counsel for the appellant placed reliance on the observation of a learned Single Judge of this Court in W.P(MD)No.1685 of 2008 in the very same Writ Petition filed by the Writ Petitioner earlier. At that time, the learned Single Judge had again observed that the contention of the appellant herein to be considered for promotion was not tenable but however, while dismissing the Writ Petition, the learned Single Judge had granted him the liberty to make a representation to be promoted. But that would not indicate that the appellant should be promoted ignoring others who are also awaiting in the line and similarly placed like the appellant.

20.We are afraid that we cannot interfere with the order of the learned Single Judge. The learned Single Judge had very correctly observed that the post in which the appellant is now employed is not the feeder category for the promotion to the Sanitary Supervisor/Sanitary Maistry. Therefore, in



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view of that particular fact, which fact cannot be disputed or denied, we hold that the appeal filed by the appellant herein will necessary have to suffer an order of dismissal and accordingly, the same is dismissed. No costs.

[C.V.K., J.] & [R.P., J.]
24.10.2024

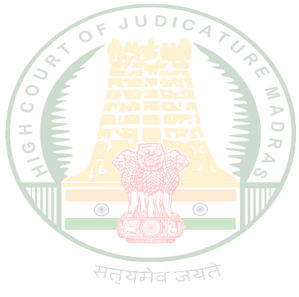
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To

1.The Director of Town Panchayats,
Kuralagam, Chennai 600 108.

2.The District Collector,
Karur District, Karur.



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C.V.KARTHIKEYAN, J.

AND

R.POORNIMA, J.

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Judgment made in
W.A.(MD)No.990 of 2018

22.10.2024