
(2015) 03 MAD CK 0160
In the Madras High Court
Case No : W.A. (MD) No. 485 of 2009

M. Sangiliyandi	Vs	APPELLANT
The Commissioner of Municipal Administration and Others		RESPONDENT

Date of Decision : 10-03-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 03 MAD CK 0160

Hon'ble Judges : T. Mathivanan, J.;A. Selvam, J.

Bench : Division Bench

Advocate : P.T.S. Narendravasan, for the Appellant

Final Decision : Dismissed

Judgement

A. Selvam, J.—This writ appeal has been directed against the order dated 05.12.2008 passed in Writ Petition(MD)No. 6083 of 2008.

2. The appellant herein as petitioner has filed Writ Petition(MD)No. 6083 of 2008 on the file of this Court under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to the respondents not to appoint any person as driver in the office of the second respondent, wherein the present respondents have been shown as respondents.

3. It is averred in the petition that the petitioner has entered into service of the second respondent as sweeper on 16.02.1996 and his service has been regularised in the year 2008 and in the meanwhile, he obtained proper licence for driving lorry. Now in the office of the second respondent, driver post is vacant. Under the said circumstances, the petitioner is having necessary qualification/eligibility to be promoted as driver. Since the respondents have tried to make some other arrangements to fill up driver post, the present petition has been filed for getting the relief sought for therein.

4. The learned Single Judge after considering the divergent contentions raised on either side, has dismissed Writ Petition(MD)No. 6083 of 2008. The order passed

by the learned Single Judge is being challenged in the present Writ Appeal.

5. The learned counsel appearing for the appellant/writ petitioner has straight away drawn the attention of this Court to Category ? 5 of Tamil Nadu Public Health Establishment Regulations, 1976, wherein it has been stated to the effect that if any driver post is vacant, the same can be filled up by way of promotion from eligible cleaners and under the said circumstances the petitioner is having all qualifications to get promotion as a driver and the learned Single Judge has failed to look into the contentions put forth on the side of the appellant/petitioner and therefore the order passed by the learned Single Judge is liable to be set aside.

6. The learned Government Advocate has contended that even the provision mentioned in the category accepted on the side of the appellant/petitioner is not applicable to the facts of the present case and further necessary qualification for getting promotion to the post of driver is 8th Standard, whereas the appellant/petitioner has passed only 7th Standard and the learned Single Judge after considering the rival contentions put forth on either side has rightly dismissed the writ petition and therefore the present writ appeal deserves to be dismissed.

7. Even a plain reading of the category mentioned supra would clearly go to show that if any driver post is vacant, eligible candidate among cleaners can be promoted.

8. It is an admitted fact that the appellant/ petitioner is nothing, but a sweeper and further he has not passed 8th Standard. Since the appellant/petitioner does not come within the category of cleaner and since he has not passed 8th Standard (necessary qualification), it is needless to say that the claim of the appellant/petitioner is totally baseless.

9. The learned Single Judge after considering all the contentions raised on either side, has rightly dismissed the writ petition. In view of the discussion made earlier, this Court has not found any error in the order passed by the learned Single Judge and therefore this Writ Appeal is liable to be dismissed.

10. In fine, this Writ Appeal is dismissed without costs.