

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.21337 of 2015

V.Srinivasan @ V.Seeni

... Petitioner

-Versus-

1.The Commissioner,  
Corporation of Chennai,  
Ripon Buildings,  
Chennai 600 003.

2.The Divisional Officer,  
Division No.VIII,  
Corporation of Chennai,  
No.36-B, Pulla Avenue,  
Shenoy Nagar,  
Chennai 600 030.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order of the 2<sup>nd</sup> respondent dated 06.09.2013 bearing Ref.No.Ma.A.8.Na.Ka.No.C3/4936/2013 and to quash the above said order and consequently direct the 1<sup>st</sup> respondent to consider the representations of the petitioner dated 16.11.2011, 26.04.2012 and 17.04.2013 on merits and in accordance with law and to issue appointment order to the petitioner on compassionate ground.

For petitioner : Mr.A.S.Thambuswamy

For respondents : Mr.S.Saravanan

ORDER

Challenging the order of the 2<sup>nd</sup> respondent rejecting the request of the petitioner for compassionate appointment and for a consequential direction to the respondents to provide for a suitable employment assistance on compassionate ground, the petitioner is now before this court with this writ petition.

2. The case of the petitioner is that his father was a Scavenger / Sanitary Worker in the respondent Corporation. He joined the service of the respondent in the year 1984. While so, by order dated 02.06.1988, he was dismissed from service. He took up the matter before the I Additional Labour Court in I.D.No.672 of 1998 and the I Additional Labour Court, Chennai, by award dated

23.01.2001 set aside the order of dismissal and directed the respondent corporation to reinstate him in service with all benefits. The said order of the Labour Court has become final.

3. It is the further case of the petitioner that despite the order of the Labour Court, the respondent corporation has not reinstated his father in service and the legal fight between his father and the respondent corporation went on. In the mean time, his father died on 31.08.2009 before he could get reinstated as per the order of the Labour Court.

4. According to the petitioner, when he made an application seeking employment assistance on compassionate ground, the same was rejected by way of the impugned order dated 06.09.2013 on the ground that the rules did not provide for employment assistance to the legal heirs of the deceased workman, who had been dismissed from service on the ground of his unauthorised absence from duty from 06.07.1984 to 03.08.1995 without any prior intimation. It is the said order now the petitioner challenges in this writ petition.

5. There is no dispute that the father of the petitioner was dismissed from service on 02.06.1988. The only ground, on which the employment assistance to the petitioner was denied, is that the father of the petitioner had been dismissed from service and the rule does not provide for employment assistance to the legal heirs of the workman who had been dismissed from service. Admittedly, by Award dated 23.01.2001 in I.D.No.672 of 1998 passed by the I Additional Labour Court, Chennai, the dismissal order was set aside and the respondent corporation was directed to reinstate the father of the petitioner in service and the said order has become final. But, the respondent corporation has not given effect to the above said order by reinstating the father of the petitioner.

6. The father of the petitioner again approached the Labour Court claiming back wages as per the award by filing application under Section 33-C (2) of the Industrial Disputes Act. Pursuant to the order of the Labour Court, the respondent paid Rs.4,78,000/- towards back wages. In the mean time, the father of the petitioner died.

7. Thus, as per the order of the Labour Court, the petitioner's father was deemed to be in service till date of his death i.e., 31.08.2009. For the failure on the part of the respondent corporation, the petitioner cannot be made to suffer. The order of dismissal of the father of the petitioner cannot be relied on for denying appointment on compassionate ground and the father of the petitioner was deemed to be in service until his death as per the order of the Labour Court. Thus, this court is of the view that the order impugned in this writ petition is liable to be quashed and the petitioner is entitled for employment assistance on compassionate ground, if he is otherwise qualified.

8. In the result, this writ petition is allowed and the order of the 2<sup>nd</sup> respondent in Ma.A8.Na.Ka.No.C3/4936/2013 dated 06.09.2013 is hereby quashed. The respondents are hereby directed to provide for a suitable employment assistance to the petitioner on compassionate ground within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Commissioner, Corporation of Chennai,  
Ripon Buildings,  
Chennai 600 003.

2.The Divisional Officer, Division No.VIII,  
Corporation of Chennai,  
No.36-B, Pulla Avenue,  
Shenoy Nagar, Chennai 600 030.

+1cc to M/s. A.S. Thambuswamy, Advocate, S.R.No.36098  
+1cc to Mr.S. Saravanan, Advocate, S.R.No.36103

KJI(CO)  
EU(12/08/2015)

सत्यमेव जयते

W.P.No.21337 of 2015

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