

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.5815 of 2017

M.Revathi

...Petitioner

-vs-

1. State of Tamil Nadu rep.by its
Principal Secretary to Government
Municipal Administration and Water
Supply Department
St.Fort George, Secretariat
Chennai 600 009

2. The Commissioner
Municipal Administration
Ezhilagam, Chempauk
Chennai 600 005

3. The Commissioner
Hosur Municipality
Hosur, Krishnagiri District

4. The Executive Officer
Mathigiri Town Panchayat
Mathigiri 635 110
Krishnagiri District

...Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the third respondent to consider the petitioner's representation dated 01.12.2016 for the post of Computer Operator on daily wage basis in Hosur Municipality within the time to be stipulated by this Hon'ble Court.

For Petitioner :: Mr.R.Bharath Kumar
For Respondents :: Mr.V.Jayaprakash Narayanan
Special Government Pleader for
R1 & 2
Mr.P.Karthikeyan for R3 & 4

ORDER

The petitioner, having passed the Bachelor's Degree in Computer Application (B.C.A.) along with the Higher Grade in Typewriting, both English and Tamil, has acquired sufficient knowledge in computer operations. Therefore, she was appointed as a Computer Operator on daily wage basis in Mathigiri Town Panchayat, Mathigiri, Krishnagiri District from 2005. Although she was reporting to the Executive Officer, Mathigiri Town Panchayat, the fourth respondent herein, there was a proposal to merge the Mathigiri Town Panchayat, Avalapalli Panchayat and other Panchayats with the Hosur Municipality. In this regard, the petitioner submitted an application on 17.10.2011 to the fourth respondent requesting her absorption in the post of Computer Operator with the Hosur Municipality. Consequently, a communication dated 19.10.2011 was issued in Na.Ka.No.630/2011/A-1 recommending the petitioner's name to work as Computer Operator in the Hosur Municipality by the fourth respondent. Thereafter, the third respondent also, by a communication dated 19.12.2011, sought for clarification from the second respondent as to whether the petitioner can be permitted to work as Computer Operator on daily wage basis in the Hosur Municipality and in this connection, the first respondent also, by issuing G.O.Ms.No.29, Municipal Administration and Water Supply (ME-1) Department dated 13.2.2013, granted permission to fill up the vacant post of Computer Operator in eight municipalities and absorbed the post and staff from 33 local bodies that were merged with eight municipalities including the third respondent Municipality. In view of the above, the petitioner was permitted by the third respondent to work as Computer Operator and she was deputed to Taluk office during the local body elections held in 2011. But somehow, she was not permitted to sign in the attendance register and thereupon not paid with the salary so far by the Hosur Municipality. In the meanwhile, in the year 2014, the petitioner took leave, since she conceived and delivered a baby in SBS Hospital Pvt.Ltd., Hosur. After the maternity period, she went to the office of the third respondent. But she was refused to attend the job stating that the proposal sent to the Government has not been approved so far with regard to the absorption of daily wagers with the merged Municipality.

2. In this context, the learned counsel for the petitioner, placing on record the Annexure-II to G.O.Ms.No.29, Municipal Administration and Water Supply Department dated 13.2.2013, submitted that in the list of consolidated pay workers and daily wage workers working in the merged local bodies to be absorbed in the Hosur Municipality, the name of the petitioner has been shown in Serial No.1. That shows that the petitioner is fully

eligible to be absorbed as per their records. Therefore, when there are vacancies in the Hosur Municipality, for the reason that the petitioner had gone on maternity leave after marriage to give birth to a child, the respondents have declined to permit her to join duty. Hence a direction may be given. Learned counsel for the petitioner further submitted that as the petitioner was employed only as daily wager, there is no requirement to get prior permission before going on long medical leave.

3. Here the counsel commits a serious mistake in advancing a wrong argument before this Court. Whether a person is working as daily wager or as probationer or as regular employee, prior permission before going on long leave is a must, which the petitioner has not done. Therefore, the respondents thought it fit not to permit the petitioner, may be for the reason that in her place some one was employed. Hence this Court is not inclined to entertain the writ petition. Accordingly, the writ petition fails and it is dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ss

To

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

2. The Commissioner
Municipal Administration
Ezhilagam, Chepauk
Chennai 600 005

3. The Commissioner
Hosur Municipality
Hosur, Krishnagiri District

4. The Executive Officer
Mathigiri Town Panchayat
Mathigiri 635 110
Krishnagiri District

+lcc to Mr.P.Karthikeyan, Advocate, S.R.No.15101
+lcc to Mr.Bharathkumar, Advocate, S.R.No.15431
+lcc to the Government Pleader, S.R.No.15283

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VGII (CO)
RS (28/03/2017)



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