



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) No.1185 of 2017
and
C.M.P. (MD) .No.8233 of 2017
in
W.P. (MD) No.4358 of 2015

1.The Chairman and Managing Director,
TANSI Corporation Office,
Thiru-Vi-Ka Industrial Estate,
Industrial Estate, Guindy,
Chennai-600 032.

2.The General Manager,
TANSI Corporation Office,
Thiru-Vi-Ka Industrial Estate,
Industrial Estate, Guindy,
Chennai-600 032.

3.The Manger-Furniture,
TANSI Corporation Office,
Thiru-Vi-Ka Industiral Estate,
Industrial Estate, Guindy,
Chennai-600 032.

.. Appellants/ Respondents 2 to 4

Vs.

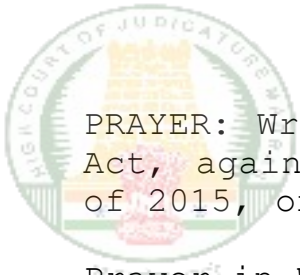
1.N.Indirani

.. 1st Respondent /Petitioner

2. The State of Tamilnadu,
Rep. by its Secretary,
Department of Industries and Commerce,
Fort St. George, Chennai-600 009.

3. The Director of Employment and Training
Thiru-Vi-Ka Industrial Estate,
Industrial Estate, Guindy,
Chennai-600 032.

.. Respondents 2 and 3/
Respondents 1 and 5



PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, against the order dated 07.06.2017 made in W.P.(MD) No.4358 of 2015, on the file of this Court.

Prayer in WP(MD). 4358/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of termination issued by the 2nd respondent Chairman and Managing Director (i/c) in Pro. NO. 537/EB/2010-1 dated 04.03.2015 quash the same and further direct the 2nd respondent to reinstate the petitioner forthwith in service with all attendant benefits including continuity of service and arrears of salary and allowances and pass such further or other orders.

For Appellants	: Mr.A.Thiyagarajan, Senior Counsel For S.Karunakar
For R-1	: Ms.Amala For Isaac Chambers
For R-2 & R-3	: Mr.M.Govindan Special Government Pleader

JUDGMENT

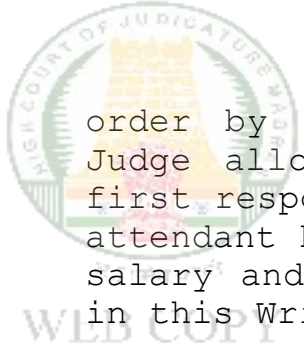
[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

This writ appeal is directed against the order dated 07.06.2017 made in W.P.(MD) No.4358 of 2015, filed by the first respondent herein.

2. The first respondent was appointed as Foreman Grade-II in the appellant Corporation under BC-Priority-Woman quota by order dated 31.01.2011. She was sponsored by the Commissioner of Employment and Training, Chennai-32, in response to the requisition from the appellant Corporation. The first respondent was treated as a candidate in Backward Class among Ex-Serviceman Dependent category. That is how, she was treated as a priority candidate. Subsequently, it appears that the Director of Employment and Training, Guindy, Chennai-32 informed the appellant that the first respondent did not come under the priority category and that she was wrongly sponsored and that therefore she must be terminated from service. Even though the matter was taken to the notice of the Government for ratification, the Government declined to ratify the action of Tamil Nadu Small Industries (TANSI) Corporation. Therefore, the first respondent was terminated from service by order dated 04.03.2015.

<https://hosevices.pcoets.gov.in/hosevices/>

3. The first respondent questioned the said termination



order by filing W.P.(MD) No.4358 of 2015. The learned single Judge allowed the Writ Petition by order dated 07.06.2017. The first respondent was directed to be reinstated in service with all attendant benefits, including continuity of service and arrears of salary and allowance. The Corporation challenges the said order in this Writ Appeal.

4. Heard the learned Senior Counsel for the appellants corporation and the learned counsel for the first respondent.

5. It was fairly admitted by the learned Senior Counsel that the first respondent did not indulge in any misrepresentation. In other words, there was no wrong doing on the part of the first respondent, which can be said to have vitiated her initial appointment. The first respondent is otherwise eligible to hold the said post. She is possessing the necessary qualification. She was appointed way-back in the year 2011. It is clearly inequitable to terminate her four years after she was appointed.

6. We, therefore, do not wish to interfere with the order passed by the learned single Judge directing reinstatement of the first respondent in service. However, the learned standing counsel for the appellants is fully justified in his contention that back-wages cannot be awarded for the period, during which she was not in service, as the principle "No work, No pay" can certainly be applied in this case. The learned single Judge, after observing that there is violation of reservation policy of the Government, chose to grant the relief to the first respondent only by applying the principles of equity and good conscience. Therefore, the question of paying back-wages for the period, when the writ petitioner was not employed, cannot arise in this case. However, the first respondent would be entitled to continuity of service for the said period for all other purposes.

7. In the result, the Writ Appeal is partly allowed and the order passed in W.P.(MD) No.4358 of 2015 is modified only to that extent. The first respondent shall be reinstated in service forthwith. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government,

<https://hcservices.depts.commerce.gov.in/> Industries and Commerce,
Fort St. George, Chennai-600 009.



2. The Director of Employment and Training
Thiru-Vi-Ka Industrial Estate,
Industrial Estate, Guindy,
Chennai-600 032.

+1 cc to M/S.Issac Chambers , Advocate in SR.No. 76486
+1 cc to The Special Government Pleader in SR.No.76962

km

AE/SV MMS/SAR1/25.09.2017/4P/5C

ORDER MADE IN
W.A. (MD) No.1185 of 2017
04.09.2017