

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.33755 of 2018
and W.M.P.No.39186 of 2018

K.Venkatesan

... Petitioner

Vs

1.The Director of Municipal Administration,
O/o.The Director of Municipal Administration,
Cheppauk,
Chennai.

2.The Commissioner,
Dharmapuri Municipality,
Dharmapuram,
Tiruppur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the directing the 2nd respondent to reinstate the petitioner in service as Night Watchman in the 2nd respondent Municipality in conformity with the order passed by the 2nd respondent in his proceedings ந.க.எண்.2882/2018/ச1 dated 04.07.2018 along with all other monetary benefits.

For Petitioner : Mr.Ajmal Associates

For Respondents : Mr.A.N.Thambidurai
Special Government Pleader for R1
Mr.P.Srinivas for R2

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O R D E R

This writ petition has been filed seeking direction to the second respondent to reinstate the petitioner in service as Night Watchman in the second respondent Municipality in conformity with the order passed by the second respondent in his proceedings Na.Ka.No.2882/2018/C1 dated 04.07.2018 along with all other monetary benefits within the period that may be stipulated by this Honourable Court.

2.The petitioner was appointed as Sanitary Worker on 28.12.2007 at Dharapuram Municipality. Subsequently, the first respondent vide his proceedings dated 19.10.2013 permitted the second respondent to post the petitioner as Night Watchman which is equivalent to the post of sanitary worker. The petitioner has been working as Watchman from 09.12.2013 till date. The second respondent, vide his proceedings dated 25.06.2018 placed the petitioner under suspension on the ground of misconduct and the same was revoked by the second respondent on 04.07.2018. While so, a charge memo dated 10.07.2018 was issued against the petitioner, to which the petitioner submitted his explanation on 20.07.2018. In the meantime, the petitioner applied for medical leave for the period between 27.08.2018 and 22.10.2018. On expiry of the medical leave, the petitioner approached the second respondent with a request to reinstate him into service. Thereafter, the petitioner submitted another representation 23.10.2018, seeking reinstatement, which did not evoke any response. Therefore, the petitioner has filed the present writ petition.

3. Mr.A.N.Thambidurai, learned Special Government Pleader takes notice for the first respondent and Mr.P.Srinivas takes notice on behalf of the second respondent.

4. Learned counsel for the second respondent objects the reinstatement of the petitioner into service on two grounds viz., (a) Misconduct and (b) Unauthorised leave. He also submits that the charge memo dated 10.07.2018 was issued for the subsequent misconduct on the part of the petitioner.

5. A perusal of the materials placed on record would go to show that the petitioner had undergone a surgery on 01.09.2018 and that he was on medical leave for the period from 27.08.2018 to 22.10.2018. The petitioner has also submitted a representation dated 23.10.2018, enclosing the medical certificate. However, the same was not considered by the respondents.

6. Under the circumstances, the respondents are directed to consider the representation given by the petitioner on 23.10.2018 and implement the order of revocation dated 04.07.2018, within a period of two weeks from the date of receipt of a copy of this order. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kst

To

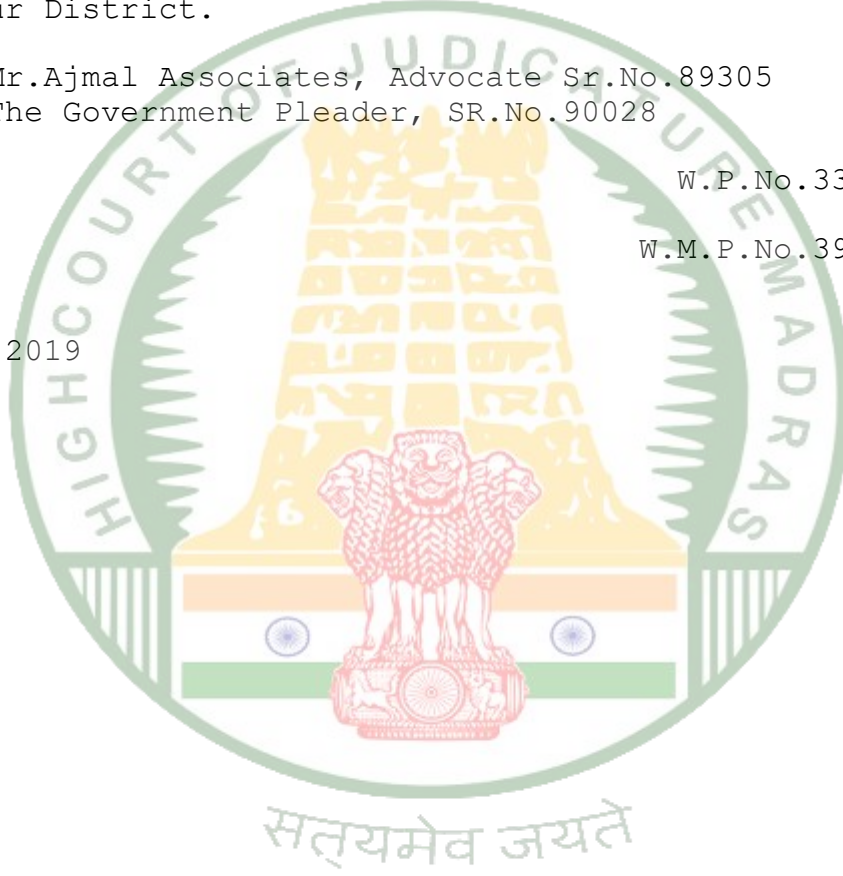
1.The Director of Municipal Administration,
O/o.The Director of Municipal Administration,
Cheppauk,
Chennai.

2.The Commissioner,
Dharmapuri Municipality,
Dharmapuram,
Tiruppur District.

+1 cc to Mr.Ajmal Associates, Advocate Sr.No.89305
+1 cc to The Government Pleader, SR.No.90028

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and
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KK(CO)
CSL/23.01.2019



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