

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2019
Coram

The Honourable Mr.Justice D.Krishnakumar

W.P.No.15214 of 2014
and
M.P.No.1 of 2014

R. Subramani ...Petitioner
Vs.

1. The Commissioner of Municipal Administration,
Chepauk, Chennai - 600 005.
2. The Commissioner,
Arcot Municipality, Arcot,
Vellore District.
3. The Joint Director,
District Municipality,
Ezhilagam, Chennai - 600 005.
4. The Commissioner (General)
Arcot Municipality,
Arcot, Vellore District. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the third respondent, in Na.Ka.No.2503/2014/H2, dated 14.02.2014, bearing Na.Ka.No.11/2014/H1, dated 18.02.2014, on the file of the fourth respondent and Na.Ka.No.11/2014/H1, dated 15.04.2014, on the file of the second respondent and to quash the above said three proceedings and consequently, to direct the respondents to appoint the petitioner in the post of Sweeper/Sanitary Worker in the respondent/Municipality in the regular time scale of pay with attendant service and monetary benefits till his date of superannuation with a further direction to pay pension and other retirement benefits within a short date that may be fixed by this Court.

For Petitioner : Mr.K.S.Govinda Prasad

For Respondents: Mr.B.Anand,
Government Advocate

O R D E R

The petitioner has filed this Writ Petition challenging the proceedings of the respondents 2 to 4 dated 15.04.2014, 14.02.2014 and 18.02.2014 respectively and to quash the above said three proceedings and consequently, to direct the respondents to appoint the petitioner in the post of Sweeper/Sanitary Worker in the respondent/Municipality in the regular time scale of pay with attendant service and monetary benefits till his date of superannuation with a further direction to pay pension and other retirement benefits within a short date that may be fixed by this Court.

2. The grievance of the petitioner is that, her mother was working as a Sweeper in the respondent-Municipality from 1976 and her service was also regularised and she has put in 31 years, 9 months and 9 days of service. Due to ill health, her mother applied for medical leave from 16.04.2007 and she was referred before the Medical Board and the Board issued a medical certificate for extension of leave for a further period w.e.f. 15.07.2007 to 15.10.2007. Based on the same, the second respondent passed an order, permitting the petitioner's mother to retire from service on medical ground w.e.f. 16.10.2007 and treated the period of absence from 15.04.2007 to 15.10.2007 as duty period and also paid salary.

2.1 According to the petitioner, as per the guidelines issued by the respondent in G.O.Ms.No.10 of Labour and Employment Department, dated 13.02.2009, wherein, G.O.Ms.No.168 dated 19.10.2000 was referred, the age limit for the government servants, who have been permitted to retire from service on medical ground for employment of their legal heirs on compassionate ground has been increased from 50 to 53 years. Since the petitioner's mother was allowed to retire from service on medical ground, 16.10.2007, the petitioner submitted an application for appointment to the post of Sweeper/Sanitary Worker on compassionate ground. But, her claim was not considered on the ground that her mother has crossed the age of 53 years at the time of submitting the application. Aggrieved by such order of rejection, the petitioner has filed the present Writ Petition seeking the aforesaid relief.

3. Mr. K.S.Govinda Prasad, the learned counsel appearing for the petitioner has submitted that the petitioner submitted an application seeking appointment on compassionate ground on 16.04.2007, and at the time of submission of such application, the petitioner's mother was 52 years, 10 months and 16 days old, and hence, the petitioner's mother comes within the age of 53 years and not crossed the age of 53 years. Therefore, the

learned counsel for the petitioner contended that the impugned order of rejection of the petitioner's application is incorrect and the same is liable to be quashed.

4. Per contra, Mr.B.Anand, the learned Government Advocate appearing for the respondents by drawing the attention of this Court to the counter affidavit filed by the respondents, submitted that the petitioner's mother applied for 60 days medical leave on 16.04.2007, and she was referred to the Medical Board for examination and the Medical Board issued a medical certificate recommending for extension of medical leave w.e.f. 15.04.2007 to 15.10.2007 and based on the said report, the petitioner's mother was allowed to retire from service on medical grounds w.e.f. 16.10.2007. Therefore, the petitioner's application for appointment on compassionate ground was not considered, as, at that relevant point of time, the petitioner's mother has not retired from service. Therefore, the learned Government Advocate submitted that the impugned order passed by the respondents is perfectly valid and calls for no interference.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

6. On considering the aforesaid submissions made on either side and on perusal of the records, it is seen that the petitioner's application for appointment on compassionate ground is dated 16.04.2007. At that point of time, petitioner's mother applied for medical leave for 60 days, and she was referred to the Medical Board for examination and based on the report of the Medical Board, dated 16.10.2007, she was allowed to retire from service on medical ground w.e.f. 16.10.2007, and therefore, the case of the petitioner cannot be accepted, as on the date of submission of the application by the petitioner, the petitioner's mother was not retired. Therefore, the respondent-Municipality has rightly rejected the claim of the petitioner stating that she is not entitled for appointment on compassionate ground. This Court does not find any error or illegality in the order passed by the respondents. Hence, the Writ Petition deserves to be dismissed as it is totally devoid of merit. Accordingly, the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-V)

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Sub Assistant Registrar

Sd

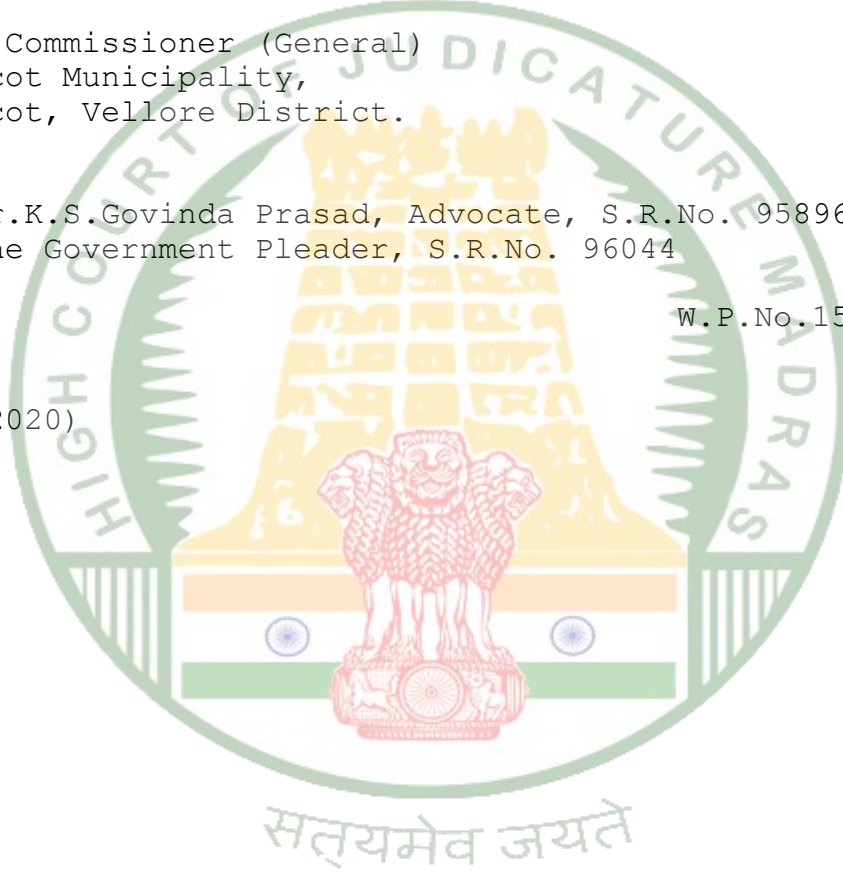
To

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4. The Commissioner (General)
Arcot Municipality,
Arcot, Vellore District.

+1cc to Mr.K.S.Govinda Prasad, Advocate, S.R.No. 95896
+1cc to the Government Pleader, S.R.No. 96044

W.P.No.15214 of 2014

SV(CO)
GN(20/02/2020)



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