

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2020

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.16890 and 16891 of 2009

S.Puhazhenth
G.Mohanapriya

.. Petitioner in W.P.No.16890/09
.. Petitioner in W.P.No.16891/09

Vs

1. The Commissioner of Employment and Training,
Guindy, Chennai - 32.
2. Corporation of Chennai,
Rep. By its Commissioner,
Rippon Buildings, Chennai - 3.Respondents in both WPs

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records pertaining to the order in Su.Thu.Na.Ka.No.C2/002/2007, dated 12.08.2009 passed by the second respondent and quash the same insofar as the cancellation of the petitioners' appointment

For Petitioners : Mr.V.Ajoy Khose
For R1 : Mr.K.Magesh, Spl.GP
For R2 : Ms.Karthika Ashok, standing counsel

COMMON ORDER

These writ petitions are directed against the impugned proceedings dated 12.08.2009 of the second respondent/the Commissioner, Corporation of Chennai, Chennai, cancelling the appointment of the petitioners in the post of Sanitary Inspector.

2. Heard Mr.V.Ajoy Khose, learned counsel appearing for the petitioner, Mr.K.Magesh, learned Special Government Pleader appearing for the first respondent, and Ms.Karthika Ashok, learned standing counsel appearing for the second respondent Corporation.

3. The petitioners, after completing UG in B.Sc. (Chemistry) in the year 2001 and 2007 respectively, have also

completed the Post Graduate Diploma in Sanitary Inspector Course in the year 2008 and thereafter, they have also registered their names in the State Employment Exchange on 24.11.2008 and 21.11.2008 respectively and similarly, with their respective District Employment Exchange on 25.11.2008 and 24.11.2008 respectively. Subsequently, the names of the petitioners were sponsored by the first respondent and thereby, the petitioners were directed by the office of the second respondent to attend the interview on 06.01.2009 for appointment to the post of Sanitary Inspector and accordingly, they have also appeared for the interview and thereafter, on being successful in the interview, they were issued with appointment order dated 06.02.2009 appointing them in the post of Sanitary Inspector along with 49 other persons. Subsequent to their appointment, they were also sent for Refresher Training Course for a period of two weeks at Tamil Nadu Institute of Urban Studies, Coimbatore, and after completion of their successful training, they were issued with a certificate on 17.07.2009 and 03.07.2009 respectively.

4. However, while they have been performing their duties to the satisfaction of their superiors, the second respondent, vide impugned proceedings dated 12.08.2009, cancelled the appointment of the petitioners citing a reason that the names of the petitioners were included by mistake by the first respondent/Employment Exchange, since they had registered their names in the Employment Exchange only on 25.11.2008 and 24.11.2008, which is much after the cut off date i.e. 20.11.2008 for sponsor of candidates by the Employment Exchange. Aggrieved by the said action of the second respondent, the petitioners have filed the present writ petitions with a prayer cited supra.

5. When the writ petitions came up for admission on 20.08.2009, this Court granted an order of interim stay of the impugned proceedings dated 12.08.2009 cancelling the appointment of the petitioners. By virtue of the interim stay, the petitioners are still in service.

6. It is submitted by the learned counsel for the petitioners that although the petitioners had registered their names in the employment exchange only on 25.11.2008 and 24.11.2008, which are much after 20.11.2008, the cut off date for sponsorship of candidates by the employment exchange, only the first respondent has sponsored the names of the petitioners by mistake and therefore, it is not due to misrepresentation of the petitioners, hence, the petitioners cannot be questioned for such mistake committed by the first respondent. In fact, after the names of the petitioners were sponsored, the petitioners were called for interview and on being successful in the

interview, they were selected and appointed on 06.02.2009 and till date, for about 11 years, they have been working continuously with the second respondent and hence, no malafide motive can be attributed against the petitioners. He would further submit that had the first respondent not sponsored their names in 2009, the names of the petitioners would have been found place in the subsequent list at Sl.Nos.1 and 2, but, unfortunately, the first respondent has not sponsored their names in the year subsequent list, might be, for the reason that the petitioner have joined in the office of the second respondent and they are still working.

7. The second respondent has also admitted in the counter affidavit stating that the petitioners have registered their names in the employment exchange and that only the first respondent/employment exchange had sponsored the names of the petitioners by mistake, however, on being successful in the interview, they were selected and appointed on 06.02.2009.

8. It is not in dispute that although the names of the petitioners were sponsored by the first respondent by mistake, the petitioners were selected on being successful in the interview conducted by the second respondent on 06.02.2009 and after their appointment, the petitioners have been receiving their salary in full for about 11 long years. Besides, it is to be noted that at the time of appointment, they were aged about 32 years and 30 years respectively and therefore, at this long length of 11 long years, now they have become over-age for fresh recruitment in the State or outside the State. After their selection, the petitioners have also lost opportunity to appear in any subsequent examination held in the State. Therefore, once the petitioners were selected on the basis of a competitive examination, their sudden ouster from service, that too, without there being any allegation of malpractice, misrepresentation or other extraneous consideration and without any enquiry, will cause undue hardship to them. This apart, the experience gained by the petitioners for all these 11 long years would also go waste as the second respondent Corporation will not have the advantage of using such a long experienced persons. Thus, in such view of the matter, the impugned order passed by the second respondent cancelling the appointment of the petitioners cannot hold good.

9. It is brought to the notice of the Court that the second respondent has paid the salary, but, without granting yearly increment and without declaration of their probation in view of the pendency of the writ petition. As highlighted above, since the petitioners have not committed any fraud or misrepresentation, the second respondent is directed to regularize the service of the petitioners and settle all the

consequential benefits as granted to other persons appointed along with them within a period of 8 weeks from the date of receipt of a copy of this order.

10. In the result, the writ petitions stand allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rkm

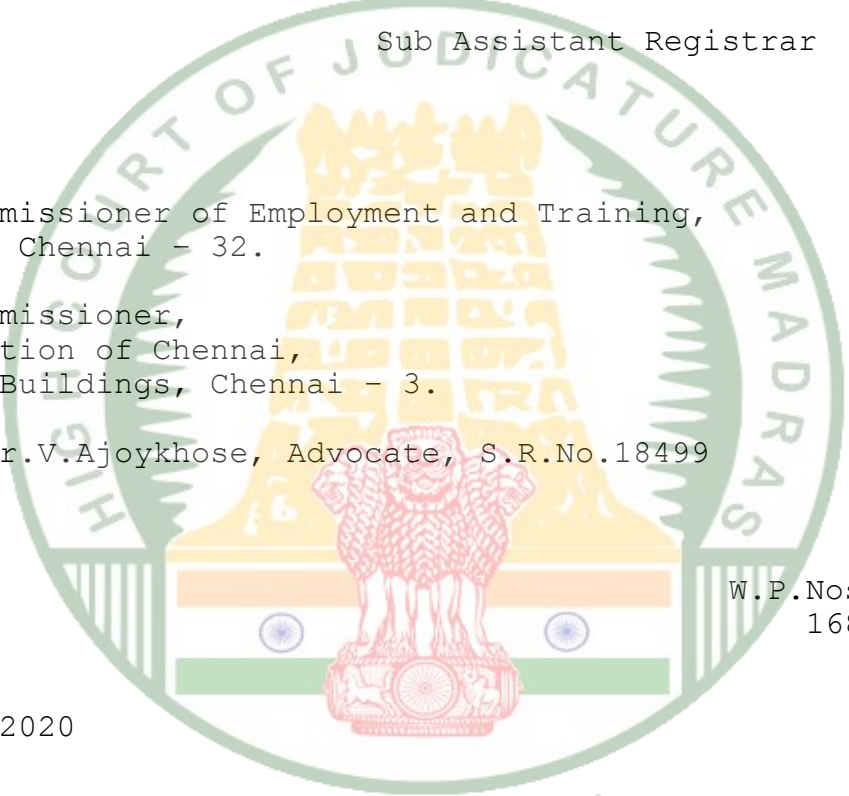
To

1. The Commissioner of Employment and Training,
Guindy, Chennai - 32.
2. The Commissioner,
Corporation of Chennai,
Rippon Buildings, Chennai - 3.

+2ccs to Mr.V.Ajoykhose, Advocate, S.R.No.18499

W.P.Nos.16890 and
16891 of 2009

RV (CO)
KKV/17/06/2020



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