

IN THE HIGH COURT OF JUDICATURE AT MADRAS

D A T E D : 02.12.2020

C O R A M

The Hon'ble Mr. Justice SENTHILKUMAR RAMAMOORTHY

Writ Petition No.18369 of 2010

Mrs.G.Gowri

...Petitioner

Vs

1.The Commissioner

Corporation of Chennai,
Chennai - 600 003.

2.The Assistant Commissioner of Police,

Corporation of Chennai, Zone -III,
No.71,Dr. Ambedkar College Road,
Pulianthope,
Chennai - 600 012.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of second Respondent in Ma.Aa.3.Na.Ka.No.a3/1712/2010 dated 30.06.2010 and quash the same and to direct the first Respondent to induct the Petitioner into permanent employment for Scavenger Workmanship.

For Petitioner: Mr.S.Rajesh

For Respondents : Mr.R.Gopinath, standing counsel

O R D E R

This writ petition is filed to challenge the order dated 30.06.2010 of the second Respondent communicating that the Petitioner is not entitled to a permanent position as a Scavenger in the Chennai Corporation.

2. I heard the learned counsel for the Petitioner and the learned counsel for the Respondents, i.e. the Corporation of Chennai.

3. The learned counsel for the Petitioner submitted that the Petitioner was appointed on a temporary basis as a Scavenger by the Assistant Commissioner, Zone - 10, in the year 1998 by order dated 05.08.1998. Thereafter, the Petitioner continued to work on temporary basis for 89 days, at a time, under orders issued from time to time. With specific reference to the order dated 15.10.2007, the learned counsel contended that, by this order, the Petitioner was appointed for a period of 89 days and posted in Ward-38. However, after the said period of employment ended in January

2008, the Petitioner was not offered employment. However, the Respondent Corporation provided permanent employment to others who were similarly situated. The learned counsel also submitted that the contention of the Respondents, in the counter affidavit, to the effect that there are no records to show that the Petitioner was appointed in the year 2008 is completely false and contrary to the documents on record and, in particular, the appointment order dated 05.08.1998. Likewise, he submits that the reason cited in the impugned order, namely, that the Petitioner did not report for work from 23.10.2003 is also completely contrary to the documents on record.

4. At an earlier hearing, the learned counsel for the Chennai Corporation disputed the genuineness of the documents at page Nos.1 to 7 of the typed set of papers. Subsequently, upon verification of the signed copies of the said documents, the learned counsel for the Corporation admitted that the said documents are genuine. However, he relied upon the circular dated 12.12.1997 of the Commissioner of the Corporation of Chennai which states that only persons who are continuing to work and who have not taken unauthorised leave for long periods should be given permanent employment. According to the learned counsel, the Petitioner's representation was rejected on the basis of the said circular.

5. I considered the submissions of the learned counsel for the respective parties and examined the materials on record.

6. Both from the averments in the affidavit in support of the writ petition and from the order of the first Respondent dated 05.08.1998, it is clear that the Petitioner was first engaged as a Scavenger on a temporary basis as early as in 1998. Consequently, the averments to the contrary in paragraph 4 of the counter affidavit of the Corporation of Chennai are untenable and liable to be rejected.

7. Likewise, the impugned order specifies that the Petitioner's name was deleted from the list of persons entitled for permanent employment because she did not attend work from 23.10.2003 onwards. Once again, I find that the reason cited in the impugned order directly contradicts the documents on record and, in particular, the order of appointment dated 15.10.2007 for a period of 89 days ending in January 2008. It is pertinent to point out that the impugned order does not cite the circular dated 12.12.1997.

8. There are materials on records to show that the Petitioner was employed as a Scavenger on temporary basis from the year 1998 onwards up to 2008. The conclusion that the Petitioner did not report for work from 23.10.2003 onwards is, as stated previously, incorrect. For all these reasons, in my view, the impugned order is not sustainable. Accordingly, the

impugned order is set aside and the Respondents are directed to reconsider the representation dated 17.02.2010 and 09.04.2010 of the Petitioner by taking into account the observations herein. Upon such consideration, the Respondents are directed to pass a speaking order within a period of two months from the date of receipt of a copy of this order.

9. The writ petition is disposed of on the above terms. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rrg

To

1.The Commissioner
Corporation of Chennai,
Chennai - 600 003.

2.The Assistant Commissioner of Police,
Corporation of Chennai, Zone -III,
No.71,Dr. Ambedkar College Road,
Pulianthope, Chennai - 600 012.

+1cc to M/s.R.Gopinath Advocate SR.NO.38642

SDR 17/12/2020

W.P.No.18369 of 2010

सत्यमेव जयते

WEB COPY