

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 22.07.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. No.30702 of 2013

and

W.MP.NOs.19600 & 21016 of 2017

and

M.P.Nos.1 to 3 of 2013

1.S.Velusamy  
2.S.Senthil Kumar,  
3.N.Saravanabhava  
4.K.Ravi  
5.R.Mayilsamy  
6.M.Paneer Selvam  
7.M.Balamurugan  
8.B.Sridhar  
9.C.Ganesan

.. Petitioners

- Vs -

1.The Government of Tamilnadu  
Rep. By its Secretary to Government  
Municipal Administration  
& Water Supply Dept.  
Fort. St. George,  
Chennai 600 009.

2.The Commissioner  
Tiruppur City Municipal Corporation  
Tiruppur.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Certiorarified Mandamus, to call for the records of the second respondent in proceedings bearing Na.Ka.No.C1/5201/2013 dated 31.08.2013 and quash the same and further direct the second respondent to regularise the service of the petitioners as Drivers in Tirupppur city Municipal Corporation with effect from the date of their appointment.

For Petitioner : M/S.K.S.Viswanathan

For Respondents: Mr.A.N.Thambidurai, Spl. Govt.  
Pleader, for R-1  
: Mr.Silabanan, Senior Counsil Asst.  
by. Mrs.P.Shanthi, for R-2

ORDER

This writ petition is filed by the petitioners, drivers of Heavy Duty Vehicles operation under the second respondent corporation praying for quashing the order of termination of their services with the 2<sup>nd</sup> respondent corporation.

2. According to the petitioners, they were initially appointed in the second respondent corporation in the year 2005 on a temporary basis under the category of conservancy staff and were engaged by the second respondent as drivers on a temporary basis. During the period May-2010, the 2<sup>nd</sup> respondent corporation published advertisements for filling up vacancies in the posts of drivers. Immediately the petitioners approached the second respondent with an application to consider their names for appointment as drivers in permanent vacancies together with their eligibility certificates. Thereafter the petitioners attended interview on 24.05.2010 and the appointment orders were issued by the 2<sup>nd</sup> respondent vide its proceedings dated 13.08.2010. As per G.O.Ms.NO. 207 Municipal Administration and Water Supply Department dated 22.10.2008, the existing posts of drivers in the pay scale of Rs.3200-85-4900 was directed to be continued and in the event of any excess requirement of drivers the same was permitted by way of contractual employment.

3. The grievance of the petitioners is that the petitioners though participated in the interview dated 10.05.2010 conducted for the purpose of filling vacancies in the 2<sup>nd</sup> respondent corporation, however when appointment orders were issued to the petitioners in proceedings bearing Na.Ka.No.C1/3125/2010 dated 13.08.2010, it was found mentioned that they were appointed on outsourcing basis and that the appointment was purely temporary and the appointees shall not claim any seniority or time scale of pay. The petitioners are registered with employment exchange and possess the requisite qualification, and were directly recruited by the 2<sup>nd</sup> respondent corporation and have remained part of the establishment since in the year 2010 and also were issued identity cards, and the salary and allowances have been paid directly by the corporation and by no stretch of imagination, the petitioners are treated as contractual or outsourced employees. Whiles, to the shock and surprise of the petitioners the 2<sup>nd</sup> respondent corporation issued an order in proceedings Na.Ka.No.C1/5201/2013 dated 31.08.2013, by which the services of all the petitioners have been terminated on the ground that the 3 year period for which they were appointed has come to an end with effect from 31.08.2013.

Aggrieved against the same, the petitioners submitted a representation dated 31.08.2013, on the same day to the 2<sup>nd</sup> respondent corporation requesting for continuation of their service. By considering the representation, the 2<sup>nd</sup> respondent corporation has issued instructions on 31.08.2013 itself permitting the petitioners to continue to work as Drivers on daily wage basis until permanent appointments are made to the post of drivers in the corporation. Aggrieved by the said order dated 31.08.2013, the petitioners made a representation on 30.09.2013 and since no orders were passed on the said representation, the petitioners have approached this Court by filing this present petition.

4. Learned counsel appearing for the petitioners submitted that the petitioners were issued a call letter dated 10.05.2010 for the post of driver and they were appointed in the year 2010 and continuously they were working as Driver. However, all of a sudden their services were disengaged on 31.08.2013 by way of impugned order passed by the 2<sup>nd</sup> respondent. Even thereafter the petitioners' services were utilised even during very calamitous situation and that the petitioners are working heavily and have since been continuing on the basis of the interim orders. Hence, it is prayed that this Court may direct the respondents to consider the petitioners representation dated 30.09.2013, in the light of the service rendered by the petitioners for more than 15 years.

5. On the above contention, this Court heard the learned counsel appearing for the respondents, who have no objection to the passing of an order as sought for. However he vehemently opposed for issuing a positive direction for absorption or permanent appointment.

6. Considering the limited request made by the learned counsel for the petitioner as well as considering the concern expressed by the learned counsel for the respondents, this Court directs respondents 1 and 2 to consider the representation of the petitioners, dated 30.09.2013 and pass appropriate orders in accordance with law within a period of 6 months from the date of receipt of copy of this order. The respondents are further directed that till an order is passed on the petitioners representation, the services of the petitioners shall not be discontinued.

7. With the above direction, this Writ petition is disposed of. However there shall be no order as to costs. Consequently, connected miscellaneous petitions are close.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

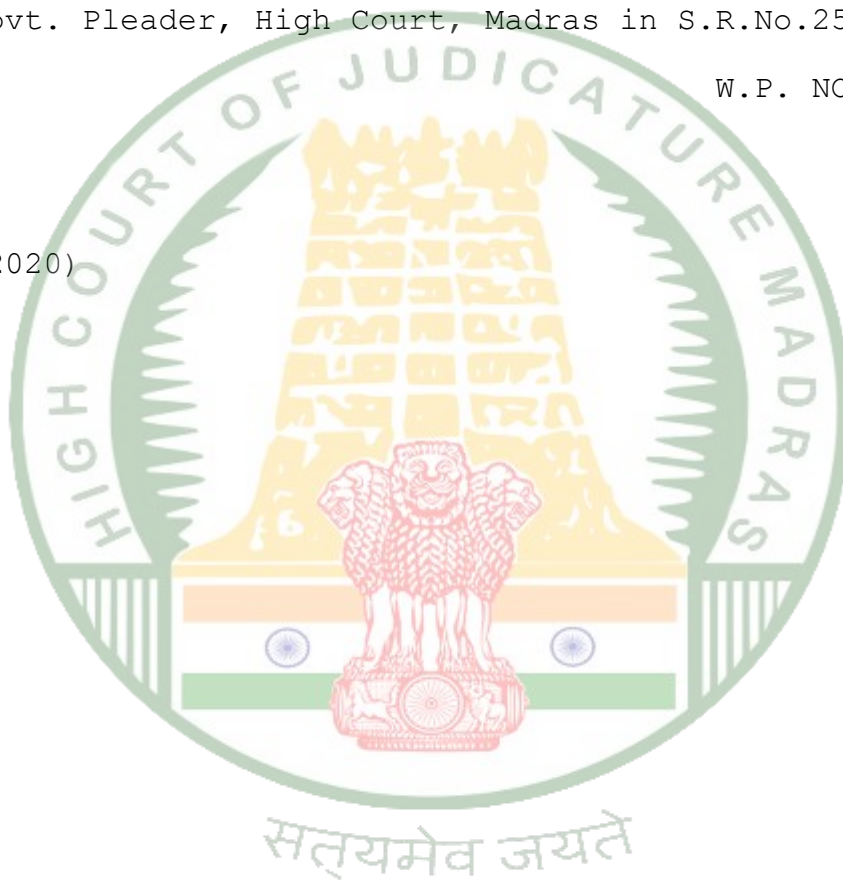
1.The Secretary to Government  
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2.The Commissioner  
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Tiruppur.

+1cc to Govt. Pleader, High Court, Madras in S.R.No.25179

W.P. NO.30702/2013

BR(CO)  
RV(27/08/2020)



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