



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2021

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.Nos.19237 & 19241 of 2021

and

W.M.P Nos. 20540,20543,20545, 20553, 20554 & 20556 of 2021
(Through Video Conferencing)

N.Thirupal	...	Petitioner
		in W.P.No.19237 of 2021
L.Yakob	...	Petitioner
		in W.P.No.19241 of 2021

Vs

1.The Commissioner, Tambaram Municipality.	
2.The Commissioner for Municipal Administration, No.75, Santhome High Road, MRC Nagar, Raja Annamalaipuram, Chennai - 28.	... Respondents in both W.Ps

Common Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent dated 29.10.2020 issued in Na.Ka.No.6887/2012/H2 and quash the same and consequently to direct the first respondent to reinstate the petitioner into service as regular sanitary worker with all service and monetary benefits.

For Petitioners: Mr.P.L.Thirumoorthy

For Respondents:

For R1	: Mr.P.Srinivas
	Standing Counsel
For R2	: Mr.L.S.M.Hasan Fizal
	Government Advocate

COMMON ORDER

Heard the learned counsel for the petitioners and the learned standing counsel for the first respondent and the learned Government Advocate for the second respondent.



2. The petitioners were appointed as sanitary workers in the year 1999. After serving about few years they proceeded on leave and their whereabouts were not known. In 2018, the petitioners wanted to re-join duty. After verifying whether the petitioners were involved in any police case or not, the second respondent had written communication to the first respondent to permit the petitioners to re-join duty.

3. The first respondent has now issued a Show Cause Notice dated 24.05.2018 under the provisions of the Tamil Nadu Municipal (Non-Centralized Regular) Public Health Establishment Discipline and Appeal Rules, 1977.

4. It is the case of the petitioners that the aforesaid Rule has been struck down as ultra vires by the Tamil Nadu Administrative Tribunal. The learned counsel for the petitioners submits that the procedure for imposing penalty in the aforesaid rule has been struck down and Government Orders have been issued pursuant to implement the same in G.O.Ms.Nos. 153 and 154, Personnel & Administrative Reforms (F.R.III) Department dated 08.08.2000.

5. The impugned order dismissing and terminating the petitioners from service is challenged primarily on the ground that it is based on non est provision which is not in existence.

6. The learned Government Advocate for the second respondent submits that the impugned order was passed on 29.10.2020 and the petitioners had not come at an earlier point of time against the impugned order. Therefore, these writ petition are liable to be dismissed for laches. It appears that the petitioners also has an alternate remedy by way of an appeal before the Appointing Authority.

7. Considering the same, these writ petition filed by the petitioners are dismissed with liberty to file an appeal before the Appointing Authority. The Appointing Authority shall dispose the appeal provided the petitioners, files such an appeal within a period of thirty days from the date of receipt of this order. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

arb/nst



To

1.The Commissioner,
Tambaram Municipality.

2.The Commissioner for Municipal Administration,
No.75, Santhome High Road, MRC Nagar,
Raja Annamalaipuram, Chennai - 28.

+1 cc to Government Pleader Sr.NO. 46913

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RGN(CO)

A.SK(27.10.2021)