

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Third day of November Two Thousand Twenty

PRESENT

THE HON`BLE MR JUSTICE R. SURESH KUMAR

WP No.87 of 2019

and WP.No.4407/2014

MADRAS CORPORATION [PETITIONER IN BOTH THE PETITIONS]
RED FLAG UNION REP BY ITS
GENERAL SECRETARY
P.SRINIVASALU
S/O. P.VENKAIAH
NO 24 LAWYER JEGANNATHAN
STREET GUINDY CHENNAI-32

Vs

1 GREATER CHENNAI CORPORATION [1st RESPONDENT IN BOTH THE PETITIONS]
REP BY ITS COMMISSIONER
RIPON BUILDING
CHENNAI-3

2 THE SUPERINTENDING ENGINEER [2nd RESPONDENT IN WP.87/2019]
(SWM) GREATER CHENNAI
CORPORATION 4TH
FLOOR AMMA MAALIGAI RIPON BUILDING
CAMPUS 1131 EVR SALAI
CHENNAI-3

Writ Petitions under Article 226 of the Constitution of India
praying that in the circumstances stated therein and in the
respective affidavits filed therewith the High Court will be
pleased to issue a Writ of Declaration

(i) To declaring that the invitation of tender dated 20-8-
0218 bearing SWMC NO A7.3025/2017 package- 1 and invitation of
Tender dated 20-8-2018 bearing SWMC NO A7/3025/2017 PACKAGE-II as
illegal arbitrary and contrary ot law and consequently direct the
respondents to retain all the members of the petitioner union whose
names are given in the Annexure to the writ petition working as Non
Muster Roll Employee under various designations such as Sanitary
worker drivers Electrician and the employees drawing wages under
the national urban livehihood mission and doing the sanitary work
and regularize their services from the date when they had completed
480 days of continuous service within a period of 24 calendar

months in terms of Section 3 of the Tamil Nadu Establishment (Conferment of Permanent Status to Workmen) Act, 1981 (in WP.87/2019) and;

NMR WORKERS LIST XEROX COPY ATTACHED

(2) Directing the respondent to treat the 333 sanitary workers, who are members of the petitioner as permanent employees with effect from their completion of 480 days of service in the respondent Corporation with all consequential arrears of pay and further revisions, attendant benefits (in WP.4407/2014)

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.BALAN HARIDAS, Advocate for the petitioner in both the petitions and of MRS.KARTHIKAA ASHOK, for Chennai Corporation for the Respondent in both the petitions the court made the following order:-

Heard Mr.Balan Haridas, learned counsel for the petitioner and Mrs.Karthika Ashok, learned Standing Counsel for the respondent Chennai Corporation.

2. In fact it is the case of the petitioner that there are 4547 workers working under various capacities like Driver, Sweeper, Assistants, Technicians etc., in the respondent Corporation and they have been engaged on temporary basis, of course continuously, for several years. He would also submit that, at the time of merger of certain urban local bodies and village panchayats numbering about 42 with the Chennai Corporation, the Government issued a Government Order in G.O.Ms.No.67, Municipal Administration and Water Supply (M.C.3) Department dated 18.07.2012. In this Government Order, the learned counsel for the petitioner relied upon Clause (e) of Para 5, which reads thus,

" There are 908 Temporary Workers (Municipality - 3, Town Panchayat - 159, Village Panchayat - 746 available in the added Urban Local Bodies. The status quo of these temporary workers on daily wages may be maintained as they have mostly not been employed with due procedure."

3. By relying upon the said Clause in the G.O., referred to above, the learned counsel would contend that, these 908 temporary workers have been saved by virtue of Clause 5(e) of the said G.O., as they have been engaged as temporary workers till date, who are also included in the list of 4547 employees annexed along with this Writ Petition. He would also submit that, insofar as the remaining employees ie., 3639 employees are concerned, though they have been continuously engaged or working under the respondent Corporation, their permanency is still in question, as the respondent Corporation has not come forward to make them permanent by way of absorption by bringing them under regular time scale of pay.

4. In this regard, Ms.Karthika Ashok, learned Standing Counsel for the Chennai Corporation, on preliminary instructions, would contend that, under the G.O., referred to above, 908 temporary workers who were the erst-while workers of urban local bodies and panchayat unions, and who were merged with the Chennai Corporation, were directed to maintain the status as temporary workers on daily wage basis till a final decision is taken in this regard and accordingly they have been engaged continuously even till date.

5. However, insofar as the remaining 3639 workers as per the annexure filed along with the writ petition is concerned, the learned Standing Counsel for the Corporation would contend that, the figure as projected by the petitioner may vary as that much of workers definitely would not have been employed on temporary basis as has been claimed by the petitioner and therefore, in this context the learned Standing Counsel would submit that, the records have to be verified as these employees have been engaged in almost all the zones of the Chennai Corporation at various point of time and therefore, the entire records pertaining to the engagement of these employees have to be verified by a team of officials of the Chennai Corporation and accordingly a list can be prepared as to the 908 workers covered under the Government Order referred above with their service particulars and the remaining workers who have been otherwise engaged continuously by the Chennai Corporation. In order to complete the said task and furnish the same before this Court, the learned Standing Counsel seeks accommodation till the last week of November 2020.

6. Accordingly, this Court is inclined to grant time to the respondent Corporation to prepare the two lists referred to above viz.,

- a)List of 908 workers covered under the G.O., along with their service particulars.
- b)List of remaining workers, who have been continuously engaged on daily wage basis or temporary or consolidated wages basis, along with their service particulars.

7. Both the above lists shall be prepared accordingly and filed before this Court, of course with an advance copy to be served to the other side, during the next hearing. It is made clear that if the above said task is not completed and the documents as referred to above are not filed before this Court, adverse inference would be drawn by this Court as no other option would be available and accordingly the issue raised in these writ petitions would be decided by this Court based on the available records.

8. Post the matter on 24.11.2020 along with W.P.No.7274 of 2020.

-sd/-
03/11/2020
/ TRUE COPY /

Sub-Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE COMMISSIONER
GREATER CHENNAI CORPORATION
RIPON BUILDING CHENNAI-3

2 THE SUPERINTENDING ENGINEER
(SWM) GREATER CHENNAI
CORPORATION 4TH FLOOR
AMMA MAALIGAI RIPON BUILDING
CAMPUS 1131 EVR SALAI CHENNAI-3

Order
in
WP.87/2019

and WP.NO.4407/2014

Date :03/11/2020

From 26.2.2001 the Registry is issuing certified
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RRI 04/01/2019 (IT) RRI 12/02/2019
RRI 01/03/2019
RRI 03/11/2020 (IT)

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