

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.10.2015

C O R A M

THE HONOURABLE Mr. JUSTICE **T.RAJA**

Writ Petition (MD)No.856 of 2013

1.N.Little Flower
2.K.Sumangala
3.C.Yesuthangam
4.J.Lilly Joy
5.T.Ponesam
6.A.Valliammal
7.P.Lakshmi
8.S.Lalithambika
9.M.Lakshmi Vasantha
10.K.Padmewari

... Petitioners

Vs.

1.The Secretary to the
Government of Tamil Nadu
St. Fort George, Chennai - 9.
2.The Director of School Education,
College Road, Chennai - 6.
3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to regularize the service of the petitioners in the permanent post from their date of initial appointment and to pay the regular time scale pay with all attendant, monetary, service benefits, terminal benefits and family pension.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.T.S.Md.Mohideen

Additional Government Pleader

ORDER

Ten persons, who are working as Sweepers under the control of the Chief Educational Officer, Nagercoil, Kanyakumari District, the 3rd respondent herein, for the past 25 years, like N.Little Flower, K.Sumangala, J.Lilly Joy, T.Ponesam and some of the persons, namely, C.Yesuthangam, P.Lakshmi, S.Lalithambika, who are working more than 30 years in various schools of the Kanyakumari District coming under

the 3rd respondent have sought for a direction to regularize their services in the light of the G.O.Ms.No.22, dated 22.06.2006 to bring them under regular service, since G.O.Ms.No.22, dated 22.06.2006 says that any person appointed through the employment exchange and completed 10 years of service is entitled to the benefit of G.O.Ms.No.22, dated 22.06.2006 for regularization, however, the respondents have not even implemented the said G.O.Ms.No.22, dated 22.06.2006 in favour of the petitioners.

2. This Court finds no justification whatsoever for not regularizing the services of the petitioners when they are working for the past 25 years in one case and 30 years in other cases.

3. Mr. T.S.Mohammed Mohideen, learned Additional Government Pleader indicating the paragraph 5 of the counter affidavit would submit that the petitioners were part time employees, therefore, they cannot claim the benefit of G.O.Ms.No.22, dated 22.06.2006 as it is applicable only to the benefit of daily wages employees working in various Government Departments.

4. At this point of time, Mr.Thalaimutharasu, learned counsel appearing for the petitioners brought to the notice of this Court a similar order passed by this Court in W.P(MD)Nos.14405 and 14406 of 2011 and prayed for the a similar direction in the present case also. While considering the similar and identical circumstances, in W.P(MD) Nos.14405 and 14406 of 2011 dated 16.12.2011 I held that a part time sanitary worker appointed through the employment exchange working in a school continuously for a long time is entitled to get the benefit of regularization. It is relevant to extract paragraphs 3 and 4 of the order which are given as under:-

"3. The petitioner/M.Ligi Rethna Bai in W.P.No.14406 of 2011, who is appointed as Part-time Sanitary worker in the above said school on 10.12.1990 through Employment Exchange, Nagercoil, Kanyakumari District has also come to this Court with same set of facts for the same relief.

4. Therefore, by taking note of the fact that the petitioners have been appointed through Employment Exchange as part-time sanitary workers on 01.12.1992 and 10.12.1990 respectively and since then they have been

working continuously for more than 19 years, this Court is inclined to issue direction directing the respondents to consider the petitioners representation, dated 05.11.2011 and pass appropriate orders on merits and in accordance with law by regularizing their service from the date of their appointment, within a period of eight weeks from the date of receipt of a copy of this order."

5. In the case on hand also, all the petitioners were appointed through employment exchange as part time sweepers. The appointment order of the petitioners issued by the District Educational Officer shows that the petitioners were appointed through the employment exchange. Subsequently, they were also made as full time sanitary workers way back in the year 18.09.2000. Therefore, this Court finds no impediment to issue a direction to the respondents to regularize the services of the petitioners in the permanent post from the date on which they were made as full time sanitary workers. Needless to mention that the respondents are directed to count 50% of the part time services rendered by the petitioners for the purpose of pension alone.

6. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(R)

/True Copy/

Sub Assistant Registrar

To,

- 1.The Secretary to the Government of Tamil Nadu
St. Fort George, Chennai - 9.
- 2.The Director of School Education, College Road, Chennai - 6.
- 3.The Chief Educational Officer, Nagercoil, Kanyakumari District.

+10cc to Mr.G.Thalaimutharasu, Advocate Sr.No.62441
+1cc to The Special Government Pleader Sr.No.62529

akm/27.11.2015 /3p-15c/

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