

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.34309 of 2016

and

WMP No.29576 of 2016

A.Sumathi ... Petitioner

vs.

1. The Director of School Education,
College road,
Chennai - 600 006
2. The District Elementary Educational Officer,
Thiruvannamalai District.
3. The Head Master,
Government Higher Secondary School,
Mangalam. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus directing the respondents to regularize the service of the petitioner in the light of G.O.Ms.No.653 dated 07.08.2009 (Home Department) and G.O.Ms.No.385 dated 01.10.2010 (Finance Department) and the order passed by this Court in Rev. Appl. No.281 of 2014 in W.P.No.13162 of 2013 dated 08.12.2014, W.P.No.33950 of 2014 dated 19.12.2014 and Rev. Appl. No.207 of 2014 in W.P.No.13168 of 2013 dated 04.08.2014 with all monetary and service benefits.

For Petitioner : Mr.R.Singaravelu,
senior counsel
for Mr.M.Srividhya

For Respondents : Mr.S.Gunasekaran,
Additional Government Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a writ of mandamus directing the respondents to regularize the service of the petitioner in the light of G.O.Ms.No.653 dated 07.08.2009 (Home Department) and G.O.Ms.No.385 dated 01.10.2010 (Finance Department) and the order passed by this Court in Rev. Appl. No.281 of 2014 in W.P.No.13162 of 2013 dated 08.12.2014, W.P.No.33950 of 2014 dated 19.12.2014 and Rev. Appl. No.207 of 2014 in W.P.No.13168 of 2013 dated 04.08.2014 with all monetary and service benefits.

3. It is the case of the petitioner that she was appointed as a part time sweeper by the 3rd respondent. Though the appointment order says that the petitioner is a part time sweeper, he made to work for the entire day even upto 6.00 p.m., in the interest of the students and school for the very meager amount of Rs.1200/-per month. The fundamental rights to primary education guaranteed under Article 21-A of the constitution of India has been interpreted by the Hon'ble Apex Court to include the healthy and good environment education.

4. The Hon'ble Apex Court in the case of Delhi Jal Board reported in (2001) 8 SCC 568 has passed several orders for the protection of the employees like the petitioner. Though in that case the employees were engaged by the Delhi Jal Board Case in connection with drainages, her job is also more or less same and similar as her job is also to clean the toilet and keep the surrounding of the school clear.

5. Neither the salary of the petitioner is enhanced nor regularized even after the lapse of 25 years in view of the wrong picture given to the Government as if she has been working only for few hours. The petitioner is working more than that of the full time employee and hence there cannot be any discrimination between the full time and part time sweepers employed in the schools.

6. In the absence of the proper particulars furnished Hon'ble Apex Court, the Hon'ble Apex Court has held that the part time employees are entitled for regularization as reported in 2014(4) SCC 769. The Government of Tamilnadu Taking note of plight has passed orders in G.O.Ms.No.653 dated 07.08.2009

and G.O.Ms.No.385 dated 01.10.2010 for the regularization of the candidates like the petitioner. That apart the Government under similar circumstances passed orders in G.O.Ms.No.68 dated 18.04.2013 for regularization in the light of G.O.Ms.No.22 dated 28.02.2016.

7. The petitioner made a representation on 22.07.2016 to the first respondent requesting to consider for regularization in the light of the above orders and since no reply to that, she forwarded the same to the 2nd respondent by registered post on 26.09.2016. Since no action was taken against the said complaint she has come forward with the present Writ Petition.

8. I have heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

9. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the second respondent to consider the representation of the petitioner dated 22.07.2016 seeking to regularize her service in the light of G.O.Ms.No.653 dated 07.08.2009 (Home Department) and G.O.Ms.No.385 dated 01.10.2010 (finance Department), and pass appropriate orders, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

10. With the above direction this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.
mrp

सत्यमेव जयते

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

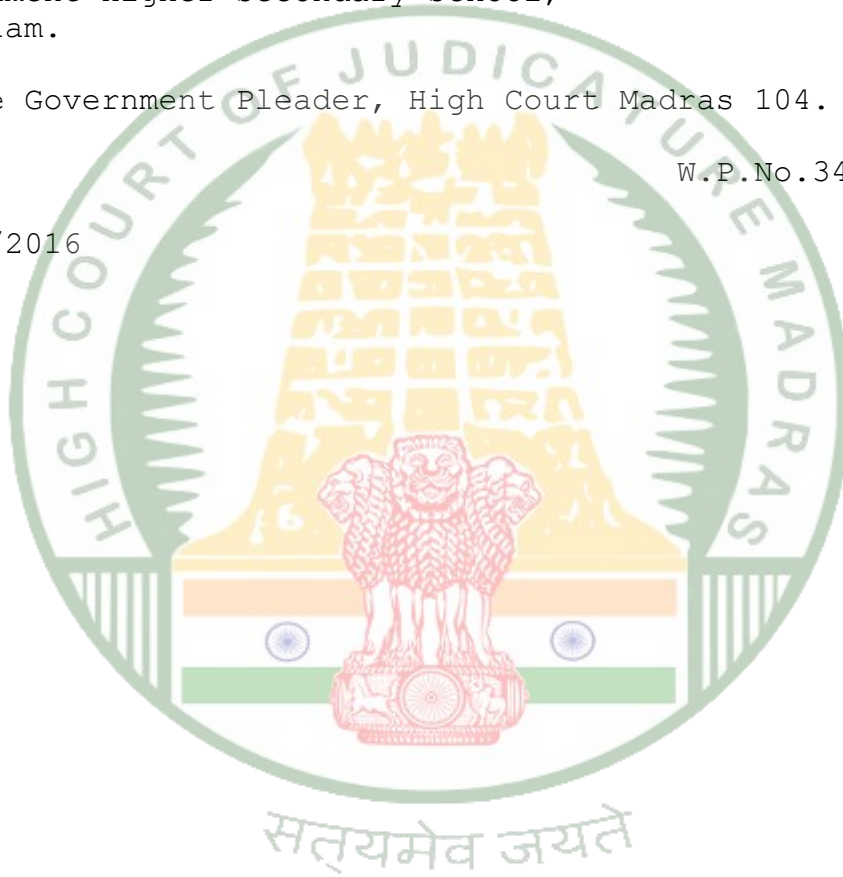
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To

1. The Director of School Education,
College road,
Chennai - 600 006
 2. The District Elementary Educational Officer,
Thiruvannamalai District.
 3. The Head Master,
Government Higher Secondary School,
Mangalam.
- + 1 cc The Government Pleader, High Court Madras 104. Sr.No.56445

W.P.No.34309 of 2016

EU(CO)
RRI 15/11/2016



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