

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.39693 of 2016

1. S.Alagammai
2. P.Valli ... Petitioners

vs.

1. The Government of Tamil Nadu,
rep. By Principal Secretary to Government,
School Education Department,
Fort St. George, Chennai 600 009.
2. The Director of School Education,
College Road, Chennai 600 006.
3. The Chief Educational Officer,
Sivaganga District,
Sivagangai.
4. The District Educational Officer,
Sivaganga District, Sivagangai. ... Respondents

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of mandamus directing the first respondent to regularize the service of the petitioners in the post of Scavenger and Sweeper-cum-Water Carrier, respectively with the regular time scale of pay on completion of ten years of service or in an alternative, to provide an appointment in suitable post from the eligible date in basic service with regular time scale of pay and grant all terminal benefits with arrears.

For Petitioners : Mr.R.Saseetharan

For Respondents : Mr.V.Anandhamoorthy,
Additional Government Pleader
(Education)

O R D E R

Petitioners have come up with this Writ Petition seeking a direction to first respondent to regularize their services in the post of Scavenger and Sweeper-cum-Water Carrier, respectively with the regular time scale of pay on completion of ten years of service or in an alternative, to provide an appointment in a suitable post from the eligible date in basic service with regular time scale of pay and grant all terminal benefits with arrears.

2. Brief facts of the case are as under:

2.1. The 1st petitioner was initially appointed as Scavenger at Thanjavur Arunachalam Chettiar Higher Secondary School, Kottaiyur, Sivagangai District on 24.10.1974 and she was working there for more than 41 years. The 1st petitioner was paid on monthly basis at the rate of Rs.18/- per month with usual allowances and she was treated as part-time employee.

2.2. The 2nd petitioner was appointed as Sweeper-cum-Water Carrier on 24.10.1985 in Thanjavur Arunachalam Chettiar Higher Secondary School, Kottaiyur, Sivagangai District on 24.10.1985 and she was working there for more than 30 years. She was paid on monthly basis at the rate of Rs.18/- per month with usual allowances and she was treated as daily rated employee.

2.3. The grievance of the petitioners is that they have not been brought to regular time scale of pay and regular establishment even after 41 years and 30 years of their service, respectively. In the light of G.O.Ms.No.528, dated 10.10.1988, which provides for regular appointment of employees on condition that the employees who have completed 10 years of service can be appointed on permanent basis if he/she satisfies with age and other qualification and in view of the proceedings dated 02.10.1989 issued by the Director of School Education that an employee can be brought to regular appointment, if he/she completes 10 years of service and in such cases, the age qualification can be relaxed, the petitioners made a representation to the respondents on 01.02.2016 to bring them on regular appointment on completion of 10 years of their service, in a regular time scale of pay. But, no orders are passed so far.

2.4. It is the further case of the petitioners that the Madurai Bench of this Court in W.P.(MD) No.8240 of 2006, by an order dated 08.09.2006 issued a direction to the District Educational Officer, Tirunelveli District for appointment of employees, who were appointed on part-time basis in regular post

in existing vacancies as last grade servants, as per the list which has already been prepared. As per the said direction, number of employees have been brought to time scale of pay in regular post. According to the petitioners, they are last grade servants and they need not go through the regular process of selection.

2.5. Further, the 1st petitioner attained the age of superannuation, i.e. 60 years on 30.07.2016, but an order of retirement has not been issued and she is still continuing as a Scavenger in the said School. In view of the fact that her service is not regularised, she has not been paid terminal benefits, though the Government extracted work from her for 41 years. Also, the petitioners have not been paid special time scale of pay, which is provided for part-time employees as contemplated under G.O.Ms.No.385, dated 01.10.2010. Hence, having no other alternative remedy, the petitioners are before this Court seeking regularization of service and other benefits.

3. Heard the learned counsel on either side and perused the material documents available on record.

4. When the matter is taken up for consideration, learned counsel for the petitioners submitted that the grievance of the petitioners will be redressed, if their representation is directed to be considered by the respondents and appropriate orders are passed on it.

5. In view of the above, without going into the merits of the case, this Court directs the petitioners to give a fresh representation to the 1st respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 1st respondent is directed to consider the representation of the petitioners on merits and in accordance with law in the light of G.O.Ms.No.528, dated 10.10.1988 and pass appropriate orders within a period of six weeks, thereafter.

This Writ Petition is disposed of with the above direction.
No costs.

Sd/-

Assistant Register

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Sub Assistant Register

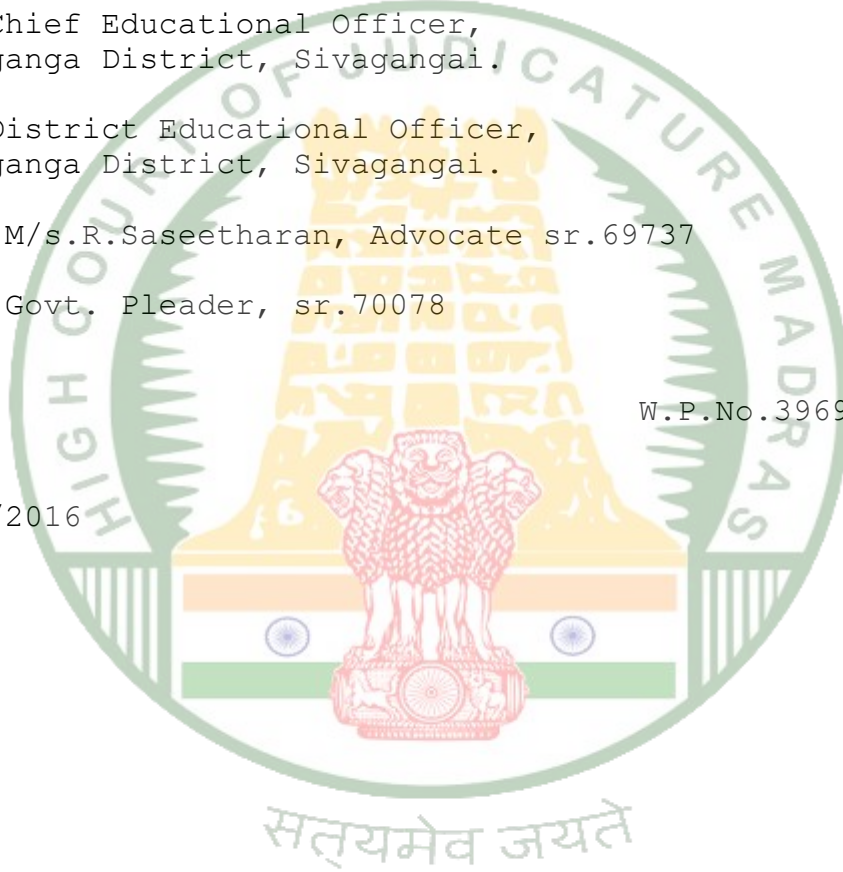
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To:

1. The Principal Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Fort St. George, Chennai 600 009.
 2. The Director of School Education,
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 3. The Chief Educational Officer,
Sivaganga District, Sivagangai.
 4. The District Educational Officer,
Sivaganga District, Sivagangai.
- + 1 CC to M/s.R.Saseetharan, Advocate sr.69737
- + 1 CC to Govt. Pleader, sr.70078

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NRI [CO]
SDR 30/12/2016



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