

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.41027 of 2016

N.Kalpana

... Petitioner

Vs.

1. The Secretary to Government,
Social Welfare Department,
Secretariat, Chennai-9.
2. The District Collector,
Salem District, Salem.
3. The Project Officer,
District Planning Division,
Combined Child Development
Programme,
Salem.
4. Child Development Planning Officer,
Combined Child Development
Programmee,
Gangavalli, Salem District.

... 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.74 dated 27.6.2013 passed by the P&AR Department with all monetary benefit and consequently, sanction all service benefits including the arrears of pay in the revised scale.

For Petitioner : Mr.M.Rajendiran

For Respondents : Mr.K.Dhananjayan,
Special 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 mandamus, directing the respondents to regularize her service in the light of G.O.(Ms).No.74 Personnel and Administrative Reforms (F) Department dated 27.6.2013 with all monetary benefits and consequently, sanction all service benefits including the arrears of pay in the revised scale.

3. It is the case of the petitioner that she was appointed as Sweeper by the fourth respondent's proceedings dated 23.8.1993 and she was given a sum of Rs.75/- per month from 1993 onwards and the same was revised from time to time. Now, she is getting a sum of Rs.1,060/- per month as consolidated pay. Though she was appointed in the year 1993, her service has not been absorbed till now. Pursuant to the Government order in G.O.Ms.No.22 Personnel and Administrative Reforms Department dated 28.2.2006, many departments had already regularized the service of the Sweepers, who have rendered ten years of service. One P.Subramani, a part time Sweeper has filed a writ petition before this Court in W.P.No.4859 of 2009 for regularization of his service and the same was allowed by this Court. Aggrieved over the same, the department preferred an appeal in W.A.No.1520 of 2010 and the same was dismissed by the Division Bench of this Court by judgment dated 25.10.2010, by confirming the order of the learned single Judge. The further appeal by the department before the Hon'ble Supreme Court in SLP (CC) No.8231 of 2011 was also dismissed on 19.5.2011. Thereafter, the Government implemented the said order in G.O.Ms.No.123 Education Department dated 17.3.2011. Subsequently, the Government passed another GO in G.O.(Ms) No.74 dated 27.6.2013 by superseding the earlier GO in G.O.(Ms) No.22, by giving benefits to those persons who have completed ten years of service as on 1.1.2006. Since the petitioner has completed ten years of service as on 1.8.2003, i.e., much prior to 1.1.2006, she is eligible and entitled to get the benefits of the said GO. In this regard, she sent a representation to the respondents. Since the same was not considered so far, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the petitioner to send a fresh representation along with a copy of this order to the first respondent within a period of two weeks from the date of receipt of a copy of this

order and on receipt of the same, the first respondent is directed to consider the said representation seeking regularization of her service and pass appropriate orders, on merits and in accordance with law and also in the light of G.O. (Ms) No.74 Personnel and Administrative Reforms (F) Department dated 27.6.2013 within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sbi

To

1. The Secretary to Government,
Social Welfare Department,
Secretariat, Chennai-9.
2. The District Collector,
Salem District, Salem.
3. The Project Officer,
District Planning Division,
Combined Child Development
Programme,
Salem.
4. The Child Development Planning Officer,
Combined Child Development
Programme,
Gangavalli, Salem District.

+1cc to Mr.M.Rajendiran, Advocate, S.R.No.68012

+1cc to the Government Pleader, S.R.No.68796

W.P.No.41027 of 2016

NR(CO)
CA(02/12/2016)