

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.18133 of 2012

Ellammal

.. Petitioner

vs

1.The Director of School Education,
College Road, Chennai - 6.

2.The Chief Educational Officer,
Dharmapuri District,
Dharmapuri.

3.The District Educational Officer,
Dharmapuri District,
Dharmapuri.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents to regularize the service of the petitioner for the post of Sweeper with effect from the date of her initial appointment dated 31.7.1992 with time scale of pay.

For Petitioner : Mr.C.Prabakaran

For Respondents : MrA.Rajaperumal

Addl. Government Pleader

ORDER

This writ petition has been filed by the petitioner seeking orders on the respondents to regularise the services of the petitioner in the post of Sweeper with effect from the date of her initial appointment dated 31.07.1992 with the time scale of pay.

2. According to the petitioner, she joined as part-time Sweeper in Avvaiyar Government Girls Higher Secondary School, Dharmapuri on 31.07.1992 and she had been discharging her duties without any blemish for the past 20 years and was fully qualified to hold the post of Sweeper. However, it is alleged

that the respondent authorities have not regularised the services of the petitioner. Several representations sent to the respondent authorities requesting to regularise the service, did not evoke any response. The last representation of the petitioner is dated 03.07.2012. The petitioner has not received any communication from the respondents. Hence, she had filed the writ petition seeking the relief stated supra.

3. Denying the averments in the affidavit filed in support of the writ petition, the third respondent filed counter stating that the petitioner was appointed by the Headmistress as a part-time Sweeper on a fixed monthly salary paid from the School Parent Teacher Association Fund and the petitioner was not appointed in the Government sanctioned post. She was not paid pay from any Government fund. The petitioner was getting salary from the School Parent Teacher Association Fund. It is stated that the Headmistress without permission from her superior officers or from the competent authority, appointed the petitioner on her own volition giving salary from the School Parent Teacher Association Fund. Therefore, the petitioner is not eligible for absorption as a full time employee. The petitioner cannot claim regularisation of her services from 31.07.1992 in the regular time scale, considering her 20 years of service as part-time sweeper.

4. I heard Mr.C.Prabakaran, learned counsel appearing for the petitioner and Mr.A.Rajaperumal, learned Additional Government Pleader appearing for the respondents and also perused the materials available on record.

5. The petitioner seeks regularisation of her appointment as Sweeper from the date of her initial appointment. She claims parity with one K.Velayuthammal, whose services as part-time Sweeper were regularised on her completion of ten years of service as part-time employee vide Na.Ka.173/2012, dated 28.11.2012.

6. According to the petitioner, based on Na.Ka.173/2012, dated 28.11.2012, the similarly placed persons working in Avvaiyar Government Girls Higher Secondary School, Dharmapuri and also the other schools in Dharmapuri District had already been regularised in the same terms on their completion of ten years of years. The respondent authorities have not disputed the communication in Na.Ka.173/2012, dated 28.11.2012. The respondent authorities have also failed to produce any materials to show that petitioner was appointed by the Headmistress as a part-time Sweeper on a fixed monthly salary paid from the School Parent Teacher Association Fund and the petitioner was not appointed in the Government sanctioned post. In the absence of any rebuttal evidence on the side of

the respondent authorities, this Court is of the view that the petitioner is entitled to get regularisation of her service, however, on her completion of ten years of service.

7. In view of the fact that the similarly placed persons have already been regularised on their completion of ten years of service, it would be appropriate to extend the same benefit to the petitioner also.

8. In the result, the writ petition is partly allowed. The respondent authorities are directed to regularise the services of the petitioner on her completion of 10 years of service and award all consequential benefits arising thereof, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

vs
To

- 1.The Director of School Education,
College Road, Chennai - 6.
- 2.The Chief Educational Officer,
Dharmapuri District,
Dharmapuri.
- 3.The District Educational Officer,
Dharmapuri District,
Dharmapuri.

+ 1 cc to Mr. C. Prabakaran, Advocate Sr.53105

W.P.No.18133 of 2013

(CS-IX)
EU(11/07/2018)