



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN

AND

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.A. [MD]. No. 1152 of 2014

and

M.P. (MD). Nos. 2 & 3 of 2014

1. The Secretary to Government,
Department for the Welfare of the
Differently Abled,
Government of Tamil Nadu,
Chennai.
 2. The Secretary to Government,
Social Welfare and Nutritious Noon Meals Programme Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.
 3. The State Commissioner for the Welfare of Differently Abled,
Government of Tamil Nadu,
51/1, Middle School Road,
Thousands Lights, Chennai - 600 006.
 4. The District Social Welfare Officer,
Trichy District.
 5. The Head Master,
Government Girls Higher Secondary School for blind,
Puthoor, Trichy - 620 017. ... Appellants/Respondents
- Vs.
- K. Krishnan ... Respondent/Petitioner

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order passed by this Court dated 26.02.2014 made in WP(MD) No. 13618 of 2010.

Prayer in WP(MD). 13618/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to issue an order, direction, with order in the nature of appropriate writ in particular a Writ of Certiorarified Mandamus calling for the records connected to the impugned order passed by the Ist respondent in his proceedings கடித எண் 11503/ மா.திரு.100/2009-9 dated 12.10.2012 and quash the same and the petitioners service into regular establishment with effect from 10.02.1986 and accord the regular time scale of pay with effect from 10.02.1986 and consequently directing the respondents to revise the pay of the



petitioner besides all other regular and consequential benefits including arrears of pay and allowances.

For Appellants
For Respondent

: Mr.T.S.Mohammed Mohideen
: No appearance

WEB COPY

JUDGMENT

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

This Writ Appeal has been filed by the Government of Tamil Nadu questioning the order dated 26.02.2014, allowing the W.P.(MD).No.13618 of 2010.

2.The respondent herein was appointed as part time Washerman/Thobi in Government Girls Higher Secondary School for Blind at Puthoor, Trichy District in the year 1986. He had been representing to the authorities for regularisation of his service. He has been getting only a meagre amount as consolidated pay. He therefore filed W.P.(MD).No.13618 of 2010 seeking regularisation. The said writ petition was opposed on the ground that G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department dated 28.02.2006 would apply only in the case of those employees, who completed 10 years of service on full time basis. But the said contention was not accepted by the learned single Judge on the ground that on the benefit of G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department dated 28.02.2006, was extended to daily wages employees along with the part time employees in a number of cases.

3.The learned single Judge noted that the writ petitioner had joined service on a part time basis in 1986 and that he completed 10 years of service on 10.02.1996. The authorities were directed to regularize the appointment of the writ petitioner as Washerman/Thobi on time scale of pay with effect from 10.02.1996, with all consequential benefits. Aggrieved by the same the writ appeal has been filed.

4.The Division Bench of this Court in the decision reported in **2014 (5) CTC 474 - State of Tamil Nadu Vs M.Seeniammal**, held that G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department dated 28.02.2006, would not cover part time employees or consolidated pay employees. Therefore the issue raised in the Writ Appeal is no longer res integra. In the light of the said Division Bench judgment, we have to necessarily hold that the order of the learned single Judge is liable to be set aside.

5.The learned Additional Government Pleader also brought to our attention the decision of the Hon'ble Supreme Court of



India rendered in SLP Civil Appeal Nos.2726 to 2729 of 2014 with Civil Appeal Nos.2730 and 2731 of 2014, dated 21.02.2014, holding that part time employees cannot equate themselves to full time employees.

6.Applying the aforesaid decision of the Apex Court and that of the Division Bench of this Court, this Writ Appeal is allowed. The order made in W.P (MD).No.13618 of 2010, dated 26.02.2014 is set aside. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Department for the Welfare of the Differently Abled,
Government of Tamil Nadu,
Chennai.
 - 2.The Secretary to Government,
Social Welfare and Nutritious Noon Meals Programme Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.
 - 3.The State Commissioner for the Welfare of Differently Abled,
Government of Tamil Nadu,
51/1, Middle School Road,
Thousands Lights, Chennai - 600 006.
 - 4.The District Social Welfare Officer,
Trichy District.
 - 5.The Head Master,
Government Girls Higher Secondary School for blind,
Puthoor, Trichy - 620 017.
- +1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.65597
KM/DAS/GSP
JS/MR.KKR/SAR.4/7.8.2017/3P-7C

W.A. [MD] .No.1152 of 2014
12.07.2017