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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

and

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A. (MD) No.885 of 2017

and

C.M.P. (MD) No.5888 of 2017

- 1.The Principal Secretary to Government,
School Education Department,
Fort St.George, Chennai.
- 2.The Director of School Education,
College Road, Chennai.
- 3.The Chief Educational Officer,
Kanyakumari District at Nagercoil.
- 4.The District Educational Officer,
Thuckalay,
Kanyakumari District. .. Appellants/Respondents 1 to 4
Vs.
- 1.A.Thanka Raj .. 1st Respondent/Writ Petitioner
- 2.The Correspondent,
Sarojini Memorial Higher Secondary School,
Urappana Vilai,
Ammandi Villai Post,
Kanyakumari District. .. 2nd Respondent/5th Respondent

PRAYER: Petition filed under Clause 15 of Letters Patent Act, to set aside the order dated 14.02.2017 passed in W.P. (MD) .No.7589 of 2013, on the file of this Court.

Prayer in WP(MD). 7589/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari filed Mandamus calling for the records pertaining to the Impunged Order passed by the 2nd Respondent in Na.Ka.No.44597/D1/E3/2012 dated 27.08.2012 and to quash the same and directing the Respondents 1 2 to approve the petitioners appointment and to regularize the petitioners service on completion of 10 years from 22.05.1987 and to pay all monitory and pecuniary benefits to the petitioner.



For Appellants
For Respondent1

: Mr.T.S.Mohammed Mohideen
Additional Government Pleader
: Mr.R.Sreenivasan,
for Mr.R.Nandakumar

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O R D E R

[Order of the Court was made by G.R.SWAMINATHAN, J.]

The Government of Tamil Nadu is on appeal challenging the order dated 14.02.2017 allowing the writ petition in W.P(MD). No.7589 of 2013.

2.The first respondent herein filed the said writ petition seeking regularisation of his service on completion of ten years from 22.05.1987 and for payment of all monetary and attendant benefits.

3.The writ petitioner/ first respondent herein was appointed as a Watchman cum Sweeper in Sarojini Memorial Higher Secondary School, Urappana Vilai, Ammandi Villai Post, Kanyakumari District by the second respondent herein. The appointment was also approved by the District Educational Officer, Thuckalay, but he was paid only on daily wage basis throughout. He therefore, sought regularisation of his appointment, but the request was rejected by The Director of School Education, Chennai. Hence, he filed W.P.(MD).No.7589 of 2013. The learned single Judge placing reliance on G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006 allowed the writ petition.

4.The Additional Government Pleader appearing for the appellants Government would contend that the said G.O.Ms.No.22, Personal and Administrative Reforms (F) Department, dated 28.02.2006 would apply only to Government servants and that the learned single Judge was in error in allowing the writ petition by applying the said G.O.Ms.No.22.

5.The application of the said G.O.Ms.No.22 to the case of the petitioner may not be correct. But the fact remains that the second respondent herein had a sanctioned post of Watchman. The writ petitioner had been working in the said post since 1987. The appointment was also approved by the District Educational Officer, Thuckaly.

6. We perused the relevant entries in the Service Register. When a sanctioned post of Watchman was available, keeping the employee on daily wages post can not be said to be fair. While we do not interfere with the reasons assigned by the learned Judge for allowing the writ petition, we do not want to interfere with the relief granted in the writ petition.



7. This writ appeal is dismissed for the aforesaid reasons. No Costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (Writs)
/True Copy/

Sub-Assistant Registrar

+One cc to Mr. R. Nandakumar, Advocate, SR.No.69888

+One cc to The Special Government Pleader, SR.N.70591

dsk
RL/3C/3P/GT/SAR1/28/8/2017

ORDER MADE IN

W.A. (MD) No.885 of 2017

02.08.2017