



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:31.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.(MD)No.1532 of 2016
and
W.M.P.(MD)No.11171 of 2016

1. The Secretary to Government of Tamil Nadu,
School Education Department,
Fort.St.George, Chennai.
 2. The Director of School Education,
No.6 College Road, Chennai.
 3. The Chief Educational Officer,
Theni District.
 4. The District Educational Officer,
Uthamapalayam,
Theni District.
- ... Appellants/Respondents

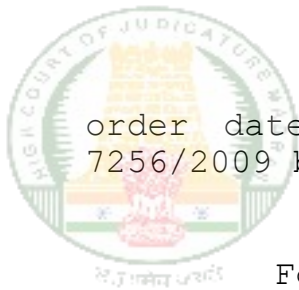
Vs.

1. K.Murugan
 2. The Secretary,
Patchaiyappa High School,
Uppukottai,
Theni District.
- ... Respondent/Petitioner
- ... Respondent/Respondent

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent, to allow the appeal and set side the order dated 27.03.2013 made in W.P.(MD)No.404 of 2012 on the file of this Court.

Prayer in WP(MD)No.404/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to regularize the petitioner s service in the post of full time sweeper in the 5th respondent s school with all service benefits and attendant and other benefits including continuity of service from the date of his appointment by considering his representation dated 14.11.2011 in the light of the



order dated 22.07.2011 made in W.P. No.8926/2008, 8927/2008 and 7256/2009 by this Honourable High Court.

WEB COPY

For Appellants : Mr.T.S.Mohamed Mohideen,
Additional Government Pleader.

For R-1 : Mr.R.Suriyanarayanan

JUDGMENT

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

The State Government is on appeal challenging the order dated 27.03.2013, allowing W.P.(MD).No.404 of 2012, filed by the first respondent herein.

2. According to the first respondent herein, he was appointed as Part-Time Sweeper in the second respondent school on 01.06.1995 and that the same was also approved by the District Educational Officer, Uthamapalayam, Theni District on 23.07.1996. The second respondent herein is a private aided school. The first respondent sought for regularisation of service by G.O.(Ms).No.22, Personnel and Administrative Reforms Department, dated 28.02.2006. According to him, he had put in more than 10 years of service and that he should be regularised in service. The learned Judge allowed the Writ Petition, by order dated 27.03.2013. Aggrieved by the same, the Education Department is on appeal before this Court.

3. Heard the learned Additional Government Pleader appearing for the appellants and the learned counsel appearing for the first respondent.

4. It is seen that the first respondent herein referred to two Government Orders. The first one is G.O.(Ms).No.22, Personnel and Administrative Reforms Department, dated 28.02.2006. The said Government Order was meant to cover only those persons, who served on daily wages in the Government Department. Admittedly, the first respondent herein is not a Government employee. He was working as Part-Time Sweeper in a private aided school. Therefore, question of invoking the said Government Order is clearly unwarranted. Secondly, G.O.(Ms).517, Education Department, dated 19.12.1997, invoked by the first respondent is also misconceived. The said Government Order envisaged regularisation of contingent employees working in private schools. Admittedly, the writ petitioner was a part-time employee and not a contingent employee. Hence, the first respondent is not entitled for regularization of his service as Full-Time Sweeper. The learned Judge erred in invoking the inapplicable Government orders.



5. In the result, the order dated 27.03.2017 in W.P(MD).No.404 of 2012 is set aside. The Writ Appeal stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

WEB COPY

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To:

1. The Secretary to Government of Tamil Nadu,
School Education Department,
Fort.St.George, Chennai.
2. The Director of School Education,
No.6 College Road, Chennai.
3. The Chief Educational Officer,
Theni District.
4. The District Educational Officer,
Uthamapalayam,
Theni District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 76117

DSS/KM

TE/JC/SAR-4 : 08/12/2017 : 3P/6C

W.A. (MD) No.1532 of 2016 and
W.M.P. (MD) No.11171 of 2016
31.08.2017