



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2017

CORAM :

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

WEB COPY

Writ Petition (MD) Nos.16989, 16990 and 16991 of 2013

K.Karunagaran ... Petitioner in W.P (MD) No.16989 of 2013
M.Sundaram ... Petitioner in W.P (MD) No.16990 of 2013
K.Thangapai ... Petitioner in W.P (MD) No.16991 of 2013

Vs.

1.The Secretary to Government,
Education Department,
Secretariat, St., George Fort,
Chennai.

2.The Director of School Education,
College Road, Nungambakkam,
Chennai 600 006.

3.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

... Respondents 1-3 in all
W.Ps.

4.The District Educational Officer,
Thakkalai, Kanyakumari District.

... 4th Respondent
in W.P (MD) No.16989 of 2013

The District Educational Officer,
Kulithurai, Kanyakumari District

... 4th Respondent in
W.P (MD) Nos.16990 and 16991 of 2013

The Headmaster,
Government Middle School,
Thottikodu, Thakkalai,
Kanyakumari District.

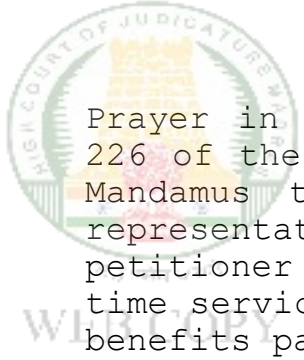
... 5th Respondent
in W.P (MD) No.16989 of 2013

The Headmaster,
Government Elementary School,
Kunchankodu, Kanniyakumari District

... 5th Respondent
in W.P (MD) No.16990 of 2013

The Headmaster,
Government Middle School,
Parambu, Kuzhithurai,
Marthandam, Kanniyakumari District

... 5th Respondent
in W.P (MD) No.16991 of 2013



Prayer in W.P(MD)No.16989 of 2013: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to consider the petitioners representation dated 24.6.2013 and to regularize the service of the petitioner as full time sweeper on completion of 10 years of part time services from 23.10.1963 and to pay time scale of pay and other benefits payable from the 23.10.1973.

Prayer in W.P(MD)No.16990 of 2013: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to consider the petitioners representation dated 16.9.2013 and to regularize the service of the petitioner as full time sweeper on completion of 10 years of part time services from 8.2.1984 and to pay time scale of pay and other benefits payable from the 8.2.1994.

Prayer in W.P(MD)No.16991 of 2013: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to consider the petitioners representation dated 24.09.2013 and to regularize the service of the petitioner as full time sweeper on completion of 10 years of part time services from 7.12.1982 and to pay time scale of pay and other benefits payable from the 7.12.1992.

For Petitioners	: Mr.G.Thalaimutharasu
For Respondents	: Mr.S.Satheesh Kumar
	Additional Government Pleader.

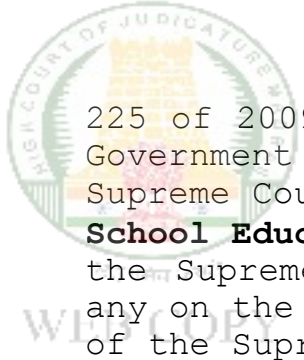
ORDER

Aggrieved by the non consideration of the request of the petitioners for regularisation, despite the fact that they have served as part time employees for more than 30 years at a meagre salary of Rs.60/- per month, the petitioners are before this Court.

2.Learned counsel for the petitioners would submit that the petitioners are entitled to the benefit of G.O.Ms.No.22 Personnel and Administrative Reforms (F) Department, dated 28.02.2006.

3.Learned Government Advocate would submit that G.O.Ms.No.74 Personnel and Administrative Reforms (F) Department, dated 27.06.2013 has been passed regarding the regularisation of part time employees. But however, the said Government Order 74, according to the learned counsel for the petitioners has got a limited retrospective effect with effect from 01.01.2006. The petitioners claim that they have been appointed as part time employees even in the year 1963, 1982 and 1984 respectively.

4.This Court, in similar circumstances, directed the respondents to consider the claim of the petitioners and some orders of the respondents rejecting the said claim have been set aside by this Court in W.P. (MD) Nos.9726 and 9727 of 2006 by order dated 24.06.2008 and the same has been confirmed in W.A.(MD)Nos.151 and



225 of 2009, by a judgment dated 23.06.2009. Therefore, the learned Government Advocate would rely upon the judgment of the Hon'ble Supreme Court reported in **(2014) 4 SCC 769 (Secretary to Government, School Education Department, Vs.R.Govindaswamy and others)**, wherein the Supreme Court had held mere long employment has not conferred any on the employees as a right of regularisation. The said judgment of the Supreme Court may not be applicable to the facts of this case because it was concerned with the case of litigious employment.

5.Learned counsel for the petitioners has produced orders in W.P(MD)No.14543 of 2012, dated 02.12.2016 and W.P(MD)No.14544 of 2012 dated 02.12.2016.

6.In the said orders also, the position was examined by this Court and this Court finally directed the authorities to consider the representations of the petitioners taking into account the judgment dated 23.06.2009 made in W.A.(MD)Nos.151 and 225 of 2009 also in the light of G.O.Ms.No.528, dated 10.10.1988.

7.Considering all the above facts, there shall be a direction to the respondents to consider the representations of the petitioners dated 24.06.2013, 24.09.2013 and 16.09.2013 in the light of the judgment of this Court in W.A.(MD)Nos.151 and 225 of 2009, dated 23.06.2009 as well as G.O.Ms.No.22, dated 28.02.2006 and G.O.Ms.No.74, dated 27.06.2013 and G.O.Ms.No.528, dated 10.10.1988 and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order.

8.The writ petitions stand disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

- 1.The Secretary to Government,
Education Department,
Secretariat, St., George Fort,
Chennai.
- 2.The Director of School Education,
College Road, Nungambakkam,
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- 3.The Chief Educational Officer,
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- 4.The District Educational Officer,
Thakkalai, Kanyakumari District.



5. The District Educational Officer,
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Kunchankodu, Kanniyakumari District

8. The Headmaster,
Government Middle School,
Parambu, Kuzhithurai,
Marthandam, Kanniyakumari District

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 18187

SMS

PSM/JC/SAR4/13.04.2017/4P/10C

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23.03.2017