



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Revised on : 07.11.2017

Delivered on : 22.02.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. (MD) .No.5935 of 2013

Rani

.. Petitioner

.Vs.

1. The Director of School Education,
College Road,
Chennai - 600 006.

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

3. The District Educational Officer,
Aranthangi,
Pudukottai District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, for issuance of writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.880/A1/2010 dated 02.01.2013 and quash the same and consequently direct the respondents to regularize the petitioner's service from the date of her initial appointment on 15.04.1996.

(Prayer amended vide Court order dated 26.10.2016 in
WMP(MD)No.14237 of 2016 by this Court)

For Petitioner : M/s.B.S.Meltiue

For Respondents : Mr.K.Guru

Additional Government Pleader

ORDER

The short question arisen in the Writ Petition is as to whether the Writ Petitioner a daily wage employee that is part of the water carrier is entitled to the benefit of the G.O.Ms.No.22, Personal and Administrative Reforms (F) Department dated 28.02.2006.



2.The case of the Writ petitioner is that she studied up to class VIII and registered her name in the District Employment Office, Pudukottai on 29.01.1996. Subsequently, her name was sponsored for the aforesaid post and accordingly the Head-Master of the Government High School, Athani Village as per his proceeding in Na.Ka.No.35/96-97 dated 15.04.1996 appointed the petitioner as per part time sweeper. Thereafter, her appointment was approved by the 3rd respondent as per his proceeding dated 06.09.1996. Now the school wherein the petitioner is working has been upgraded from High School to Higher Secondary School and the strength of students also increased. However, G.O.Ms.No.22 dated 28.02.2006 was issued by the Government in order to regularize the services of the daily wage employees of all Government Departments who have rendered 10 years of service as on 01.01.2006 in the time scale pay. Hence the petitioner has made representation dated 20.12.2012 to the respondents 2 and 3 for legal action to regularize her service. But the same was rejected as per the impugned order in Na.Ka.No.880/A1/2010 dated 02.01.2013 of the 3rd respondent. Hence the petitioner has come up with the present writ petition.

3.Per contra, the 3rd respondent District Educational Officer, Aranthangi, Pudukottai District filed her counter affidavit stating that the request of the petitioner for regularization of service was rightly rejected as the petitioner has not completed 10 years of service as on 01.01.2006. But the service of the petitioner is lacking nearly about 3 months to satisfy the requirement of the aforesaid Government Order. So, the prayer of the 3rd respondent is liable to be rejected and the writ petition is to be dismissed.

4.I heard M/s.B.S.Meltiue, learned counsel appearing for the petitioner and Mr.K.Guru, learned Additional Government Pleader appearing for the respondents and all the materials available on record are perused.

5.The learned counsel for the petitioner would submit that the legal position in respect of G.O.Ms.No.22 has been settled by this Court on various occasions. Further, he also submits that the petitioner is entitled to get the benefit of the aforesaid Government Order when she has completed the 10 years of service and would get eligible of time scale pay. To strengthen his arguments, he has relied on the following judgments:

- (i) 2005(1) CTC 488, (ii) W.A.(MD)No.391 of 2007,
- (iii) (2010) 9 SCC (iv) 247, W.P.No.2749 of 2007
- (v) (2012) 2 MLJ 389, (vi) W.P.(MD)No.12874 of 2011, (vii)
- (2012) 6 MLJ 827, (viii) W.P.No.12040 of 2012, (ix)
- W.P.No.16110 of 2012, (x) W.P.(MD)No.3699 of 2007, (xi)
- W.P.(MD)No.4806 of 2011, (xii) (2014) 13 SCC 268.



6. From the perusal of the judgments it would transpire that the aforesaid Government Order, no doubt, applicable to the case of the petitioner. At the same time, she would be given regularization after the completion of 10 years of service that is on 14.04.2006. The gist of the G.O.Ms.No.22 would read as follows:

"The Departments of Secretariat may, therefore, be directed to pursue action to regularize the services of the daily wages employees working in all Government Departments who have rendered 10 years of service as on 01.01.2006 as ordered in Para 2 above, in consultation with the respective Heads of Departments wherever necessary. In special cases, wherein relaxation of rules is required, proposal shall be sent to Government."

7. Further the judgments relied on by the petitioner are squarely applicable to the case of the petitioner especially in (2014) 13 SCC 268 wherein it is held that the candidates, who had put in more than 10 years of service shall be entitled regularization. At the same time, these employees cannot be treated as back door entrance. Since, the law is very clear and settled this Court has no hesitation to grant the relief sought for by the petitioner.

8. In the result:

(a) this Writ Petition is allowed by quashing the impugned order passed by the 3rd respondent in Na.Ka.No.880/A1/2010 dated 02.01.2003;

(b) the respondents are hereby further directed to regularize the service of the petitioner from the date of her initial appointment when she completed ten years of service.

(c) the said exercise shall be completed within a period of eight weeks from the date of receipt of copy of this order. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Director of School Education,
College Road,
Chennai - 600 006.



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

3. The District Educational Officer,
Aranthangi,
Pudukottai District.

+1cc to M/S. B.S.MELTIVE, Advocate, SR.No.10387.

Pre-Delivery order made in
W.P. (MD) .No.5935 of 2013
22.02.2017

SDS/SV/SAR 1/25.05.2017/4P/5C