

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2018

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice KRISHNAN RAMASAMY

W.A.No.2395 of 2013

and

M.P.No.1 of 2013

1.The Chief Educational Officer,
Theni.

2.The District Educational Officer,
Periyakulam.

3.The Joint Director of School
Education (Personnel),
College Road, Chennai.

..Appellants/ Respondent

Vs

K.Perumal

..Respondent/Petitioner

Appeal preferred under Clause XV of Letters Patent against the order dated 09.04.2012 made in W.P.No.2198 of 2007.

W.P.No.2198 of 2007

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus to direct the respondent to bring the petitioner in the regular time scale (Full Time) Post of Sweeper from the date on which is Junior Chengam was posted i.e.on 17.8.92 in the time scale pay and to award all consequential benefits.

For Appellants .. Mr.K.Karthikeyan,
Govt. Advocate
For Respondent .. No appearance

JUDGMENT

(Judgment of the Court was delivered by M.M.SUNDRESH, J.)

The respondent was appointed as Part Time Sanitary Worker on 06.01.1982. The job of the respondent was that of a Sweeper. Even during the pendency of the service, the respondent was making representation for regularising his services. The request made was rejected notwithstanding the representations made. In the meanwhile, he retired from service on attaining the age of superannuation on 11.07.2015. Thereafter, the writ petition was filed seeking a writ of mandamus, directing the appellants to bring the respondent in the regular time scale in the post of Sweeper.

2.Learned single Judge by placing reliance upon the judgment rendered in W.P.No.48431 of 2006 dated 23.12.2009, which attained finality, was pleased to allow the writ petition as prayed for and hence the present writ appeal.

3.Learned Government Advocate appearing for the appellants would submit that the respondent is only a part time worker. The Government Order passed in G.O.Ms.No.22 Personnel and Administrative Reforms (F) Department dated 28.02.2006 speaks about the persons who have completed ten years of service on 01.01.2006 to be regularised. As the respondent had retired from service on 01.07.2005 itself, there is no question of regularisation.

4.Admittedly, the respondent was working in the substantive post. He was continuously working for 18 years as Sweeper. There is no need for appointment to be made through employment exchange for Class IV employee. It is not as if the appellants have discontinued the services of the respondent in the interregnum. Though he was appointed as Part Time Sweeper, the nature of service was a regular one. He had put in 18 years of continuous service. When once the Government Order was extended to those who are in service as on 01.01.2006, the same cannot be denied to someone, who was agitating the same for quite some time, but eventually retired prior to it. Therefore, we do not find any error in the order of the learned single Judge with respect to the conclusion arrived at. After all, we are dealing with the post in which the respondent was working as Sweeper continuously for a period of 18 years.

5.In such view of the matter, we are not inclined to interfere with the order of the learned single Judge.

Accordingly, the writ appeal stands dismissed. However, we make it clear that the regularisation can only be used for the purpose of computing the retiral benefits after the completion of ten years. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mmi

To

1.The Chief Educational Officer,
Theni.

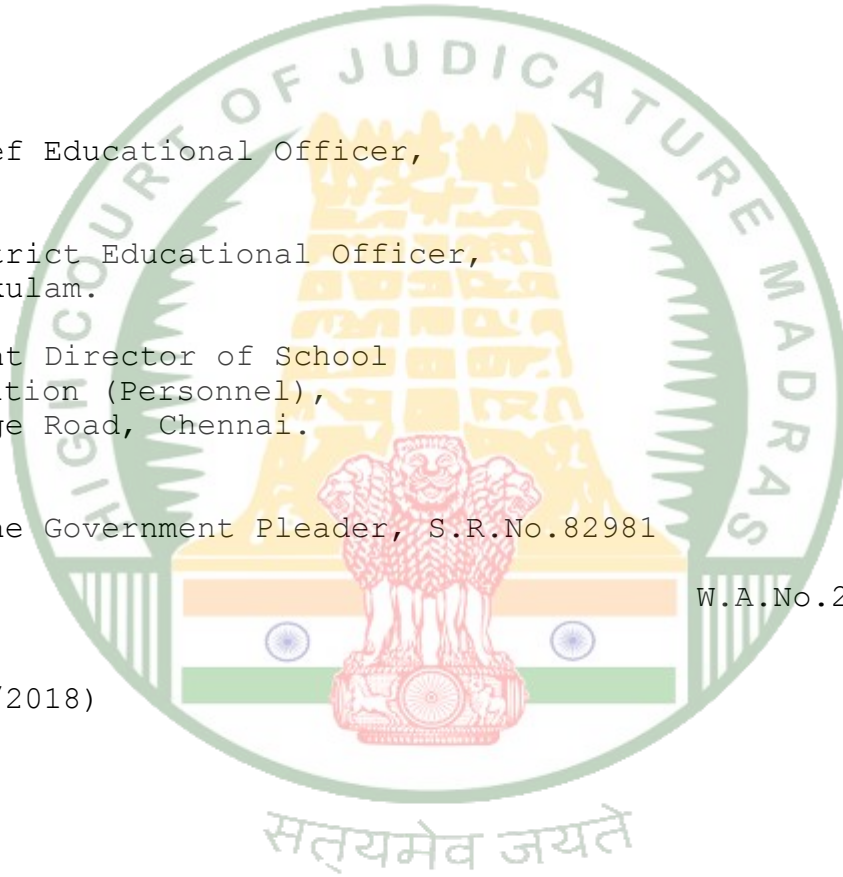
2.The District Educational Officer,
Periyakulam.

3.The Joint Director of School
Education (Personnel),
College Road, Chennai.

+1cc to the Government Pleader, S.R.No.82981

W.A.No.2395 of 2013

SR(CO)
GSP (21/12/2018)



WEB COPY