

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 31.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.411 of 2007
and M.P.No.1 of 2007

L.Velmurugan

.. Petitioner

Vs.

1. The Director of School Education
College Road, Chennai - 6.
2. The District Educational Officer
Sivaganga, Sivagana District.
3. The Chief Educational Officer
Sivaganga.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the respondents to regularize the services of the petitioner from his initial date of appointment in the regular time scale of pay and with all other consequential service benefits.

For Petitioner : Mr.R.Prem Narayan

For Respondents : Mr.M.Elumalai
Government Advocate.

O R D E R

Mr.Prem Narayan, learned counsel is before this Court on behalf of the writ petitioner. Mr.M.Elumalai, learned Government Advocate is before this Court on behalf of all the three respondents.

2. Subject matter of the writ petition is regularisation of the services of the petitioner, who was admittedly appointed as a part-time Sweeper on 29.10.1994. It is the case of the writ petitioner that he is working as a part-time Sweeper continuously without any break in service.

3. A perusal of the affidavit filed in support of the writ petition reveals that the crux of the petitioner's case or in

other words the sheet anchor of the petitioner's case is G.O.Ms.No.22 Personnel and Administrative Reforms (F) Department, dated 28.02.2006, vide which, there was a direction to various Departments of Secretariat for regularising the services of the daily wage employees working in all Government Departments, who have rendered 10 years of service as on 01.01.2006.

4. By consent of both the learned counsel, the main writ petition is taken up for disposal.

5. Mr.M.Elumalai, learned Government Advocate points out that the prayer in the writ petition cannot be acceded to as the issue, according to him, is no longer res integra. It is his emphatic submission that the issue has been conclusively decided by the Honourable Supreme Court in State of Tamil Nadu through Secretary to Government, Commercial Taxes and Registration Department, Secretariat Vs. A.Singamuthu reported in (2017) 4 SCC 113. Court's attention was drawn to paragraph 17 of the said judgment, which reads as follows:

"17. The learned Single Judge of the High Court, while allowing the writ filed by the respondent extended the benefit of the said G.O.Ms.No.22 dated 28.02.2006 and directed the appellants to grant regularisation of respondent's service from the date of completion of ten years of service with salary and other benefits. The learned Judge failed to take note of the fact that as per G.O.Ms.No.22 dated 28.02.2006, the services of employees working in various government departments on full-time daily-wage basis, who have completed more than ten years of continuous service as on 01.01.2006 will be regularised and not part-time masalchis like the respondent herein. In G.O.Ms.No.84 dated 18.06.2012, the Government made it clear that G.O.Ms.No.22 dated 28.02.2006 is applicable only to full-time daily wagers and not to part-time daily wagers. The respondent was temporarily appointed part-time worker as per Tamil Nadu Finance Code, Vol.2, Appendix 5 and his appointment was completely temporary. The respondent being appointed as part-time masalchi, cannot compare himself to full-time daily wagers and seek benefit of G.O.Ms.No.22 dated 28.02.2006. The Single Judge also failed to consider that the Government did not grant regularisation of services of any part-time employee on completion of ten years of his service as envisaged under G.O.Ms.No.22 dated 28.02.2006."

6. It is also brought to the notice of the Court that some other learned Single Judges of this Court as well as Division Bench of this Court has negatived the claims of similarly placed persons i.e., similar to that of the writ petitioner based on aforementioned A.Singamuthu's judgement.

7. In the light of the aforesaid narrative, the prayer in this writ petition cannot be acceded to and the writ petition deserves to be dismissed on A.Singamuthu's principle.

8. In the light of the authoritative pronouncement made by the Honourable Supreme Court, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

vsm
To

1. The Director of School Education
College Road, Chennai - 6.
2. The District Educational Officer
Sivaganga, Sivagana District.
3. The Chief Educational Officer
Sivaganga.

+1cc to Mr.R.Prem Narayan, Advocate, S.R.No.52015
+1cc to the Government Pleader, S.R.No.52850

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W.P.No.411 of 2007

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