

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2018

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

W.P.No.16143 of 2012

A.Baskaran

.. Petitioner

vs

- 1.The State of Tamilnadu,
rep. by the Secretary to the Government,
School Education (R1) Department,
Secretariat,
Chennai - 9.
 - 2.The Director of School Education,
College Road,
Chennai - 6.
 - 3.The District Educational Officer,
Chennai District.
 - 4.The Headmaster,
Jaigopal Karodia Government
Girls' Higher Secondary School,
Choolaimedu,
Chennai - 94.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of mandamus directing the respondents to regularise the service of the petitioner in the light of G.O.Ms.No.22 (P & AR) Department, dated 28.02.2006 and G.O.Ms.No.111, School Education (R1) Department, dated 09.05.2012 passed by the first respondent forthwith and pay all the service and monetary benefits.

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For Petitioner : Mr.R.Singaravelan
Senior Counsel
for M/s.M.Srividhya

For Respondents : Mr.K.Venkatramani
Addl. Advocate General
assisted by
Mrs.M.E.Raniselvam
Addl.G.P. for R1 to R3

ORDER

This writ petition has been filed seeking a writ of mandamus directing the respondents to regularise the services of the petitioner in the light of G.O.Ms.No.22, P & AR, Department, dated 28.02.2006 and G.O.Ms.No.111, School Education (R1) Department, dated 09.05.2012 passed by the first respondent and to pay all service and monetary benefits.

2. The case of the petitioner is that he was selected and appointed by the Parent Teachers Association of the fourth respondent School to the post of Office Assistant and he had joined the service on 05.06.1990. From the date of the appointment till date the petitioner has been serving in the said post without any blemish on his part as a full time employees. According to the petitioner, as per G.O.Ms.No.22 P & AR Department, dated 28.02.2006, the services of the petitioner have to be regularised on completion of 10 years of service. Despite repeated representations, the respondent authorities have not regularised the services of the petitioner. Hence, the petitioner has filed the present writ petition.

3. Resisting the writ petition, the respondents have not filed any counter-affidavit.

4. I heard Mr.R.Singaravelan, learned Senior Counsel for M/s.M.Srividhya, learned counsel appearing for the petitioner and Mr.K.Venkatramani, learned Additional Advocate General assisted by Mrs.M.E.Raniselvam, learned Additional Government Pleader for the respondents 1 to 3.

5. The Parent Teachers Association in the State of Tamil Nadu, which is a non-Government Organisation, was established in the year 1964. The Association was organised with the object to develop good relationship and better co-operation between the parents and teachers, to guide children for their improvements in social, economic, cultural and educational activities, among

other activities. Apart from the development of the students, the Parent Teachers Association also involves itself in the improvement and development of the school. Whenever, the School Management is in shortage of finance to meet necessary expenses like paying the remuneration for ad hoc appointees or expansion or construction of school buildings, the Parent Teachers Association also raises funds to assist in such activities. At times, whenever a situation arises whereby the Government is unable to provide fund immediately to aided schools owing to shortage in their budget and whenever the Government, in principle, has agreed to provide funds, the Parent Teachers Association extends financial assistance during such situations.

6. The learned Senior Counsel for the petitioner submitted that the Government had issued G.O.Ms.No.22, dated 28.02.2006 and ordered to regularise the service of those persons working on temporary basis, on their completion of ten years of service in all Government Departments/Offices and therefore, the petitioner is entitled to get his services regularised with time scale of pay on completion of ten years of service. The learned Senior Counsel would submit that similar writ petitions were allowed by this Court, which were also confirmed by the Division Bench in writ appeals and subsequently, the said orders were also implemented by the respondent authorities.

7. Similar issues were considered by this Court in the following decisions:

- (i) W.P.(MD) Nos.11707 of 2006 dated 22.12.2006, confirmed in W.A.(MD) Nos.391 of 2007, dated 25.10.2007 and the said order was implemented by the Department on 30.11.2007.
- (ii) W.P.No.18126 of 2008, dated 29.7.2008, confirmed in W.A.No.230 of 2009, dated 3.8.2009, taking note of G.O.Ms.No.22, dated 28.2.2006 and held on completion of ten years of service, services of a part-time employee shall be regularised by the department from the date of completion of ten years. The Special Leave Petition in SLP.No.1972 of 2009 filed against the judgment was dismissed by the Supreme Court during March 2010 and the order was also implemented.
- (iii) W.P.No.13499 of 2008, dated 12.6.2008, confirmed in M.P.No.1 of 2008 in W.A. SR. No.75291 of 2009, dated 07.10.2009, wherein a Division Bench of this Court held as under:
"3. ... We have also noted that even on merits, the first appellant Director of School Education does not have any case. The respondent herein was employed as a part-time

sweeper in a Government Girls High School and her appointment was approved by the Inspector of Girls School, Kancheepuram, way back on 19.12.1999. The respondent had prayed for regularisation of her services by filing the writ petition. The learned single Judge has noted that there is a Government Order in G.O.Ms.No.22, Personnel and Administrative Reforms Department, dated 28.2.2006, which requires the Government Departments to regularise daily wage employees who have rendered ten years of service as on 1.1.2006. the respondent herein fully satisfied that requirement and had, therefore, prayed her regularisation right from the initial date of her appointment. The learned single Judge has granted regularisation only after her completion of ten years of service, in tune with the above government order. This being so, in fact on merits, the first appellant Director of School Education has no reason to have any grievance with the order passed by the learned single Judge, apart from the fact that he does not have any case."

The said order was also implemented by the department.

- (iv) W.P. (MD) Nos. 9726 & 9727 of 2006 dated 24.6.2008, confirmed in W.A. (MD) Nos. 151 and 225 of 2009, dated 23.6.2009. The SLP preferred by the Government was dismissed by the Supreme Court vide order dated 11.2.2010. The said order was also implemented.
- (v) Order in W.P. Nos. 27488 to 27490, 27162, 27163, 26888, 26991 and 27309 of 2010, dated 02.10.2010 was implemented by the respondents therein through G.O. Ms. No. 99, School Education Department, dated 08.6.2011 and G.O. Ms. No. 121, School Education Department, dated 08.8.2011.

8. It also appears that similar issue considered by this Court in W.P. No. 19126 of 2008, dated 29.07.2008, was confirmed in W.A. No. 230 of 2009, dated 03.08.2009, taking note of G.O. Ms. No. 22 dated 28.02.2006 and it was held that on completion of 10 years of service, services of part-time employee shall be regularised by the department from the date of completion of 10 years. In paragraphs 7 & 8, the Division Bench held as under:

"7. The main submission of the learned Government Pleader is that the proposals for regularisation of the part time employees are pending before the

Government. When the proposals are pending under consideration before the Government there is no need to give any direction to the Government to regularise the services of the respondent.

8. We do not find any force in the said submission made by the learned Government Advocate. On a perusal of the entire materials, it could be seen that the respondent was working for the past 13 years as a part time employee in a Higher Secondary School. Para 3 of the G.O.Ms.No.22 P & AR Department, dated 28.2.2006, reads as follows:

"3.The Departments of Secretariat may therefore be directed to pursue action to regularise the services of the daily wages employees working in all Government Departments, who have rendered 10 years of service as on 1.4.2006 ..."

9. On perusal of the above referred orders, it is evident that persons similarly placed i.e., part-time sweepers, watchmen, night watchmen, water attenders and office assistants etc., employed in the Government schools were granted regularisation of their services on completion of 10 years of service by relaxing the rule whenever required in terms of G.O.Ms.No.22, dated 28.02.2006 and they were paid arrears of full time salary. The Government having passed such an order has to apply the same yardstick to all similarly placed persons without any discrimination. It is not the case of the respondent authorities that the aforesaid orders will not apply to the case of the petitioner herein.

10. Applying the above said orders passed by this Court to the facts of the present case, the writ petition is allowed with a direction to the respondents to regularise the services of the petitioner on completion of ten years of service with time scale of pay. The regularisation order is directed to be issued by the respondents within a period of eight weeks from the date of receipt of a copy of this order. The arrears of salary payable to the petitioner, pursuant to his regularisation, shall be paid to him within a period four weeks therefrom. No costs.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

vs

To

1.The Secretary to the Government,
School Education (R1) Department,
Secretariat,
Chennai - 9.

2.The Director of School Education,
College Road,
Chennai - 6.

3.The District Educational Officer,
Chennai District.

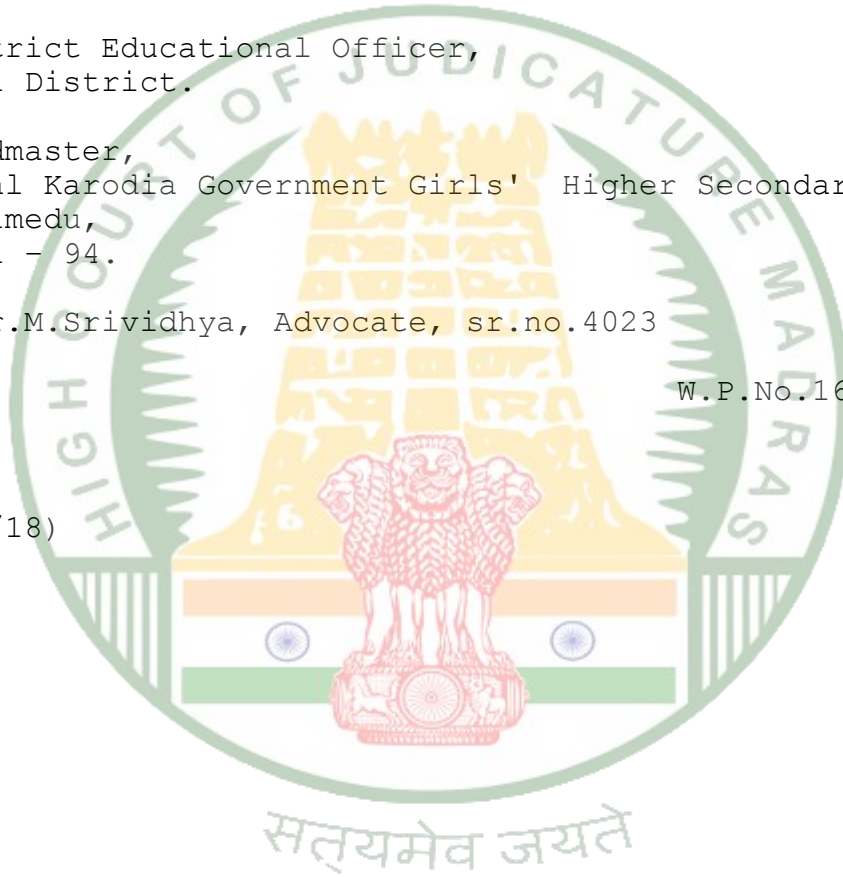
4.The Headmaster,
Jaigopal Karodia Government Girls' Higher Secondary School,
Choolaimedu,
Chennai - 94.

+1cc to Mr.M.Srividhya, Advocate, sr.no.4023

W.P.No.16143 of 2012

SG(CO)

RRK(24/05/18)



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