

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2018

CORAM:

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

WP.No.27985 of 2013

A.Selvarani

... Petitioner

Vs.

1.The Director of School Education,
(Higher Secondary)
College Road, Nungambakkam,
Chennai - 600 006.

2.The Chief Educational Officer,
Vellore District,
Vellore - 632 009.

3.The District Educational Officer,
Vellore District,
Vellore - 632 005.

4.The Correspondent,
L.F.C. Girls' Higher Secondary School,
Ranipet, Vellore District.
Pin - 632 401.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to regularize the service of the petitioner on her completion of ten years in the post of Part Time Sweeper and to bring the post into Full Time Sweeper post, with all attendant and consequential benefits including the arrears of salary and allowances arising thereof.

For Petitioner : Mr.S.N.Ravichandran

For Respondents: Mr.R.Govindasamy (for R1 to R3)
Special Government Pleader

ORDER

This writ petition is preferred by the petitioner directing the 1st and 2nd respondents, Director of School Education, Chennai and Chief Educational Officer, Vellore to regularize the

service the petitioner on her completion of ten years in post of part time sweeper and to bring the post into full time sweeper post with all attendant and consequential benefits including the arrears of salary and allowances arising thereof.

2. Brief case of the petitioner:

The facts of the case is that the petitioner was working as part time sweeper in L.F.C.Girls Higher Secondary School, Ranipet on 1.7.1998 in the fixed pay of Rs.335/- per month and the same was approved by District Educational officer vide proceeding R.C.No.8373/A4/98 dated 30.10.1998 at present the petitioner was receiving pay of Rs.1020/- fixed pay per month. The petitioner submits his representation dated 2.9.2013 through the 4th respondent and the same was forwarded to the 1st respondent. In this representation petitioner have sought for the approval of full time sweeper from part time sweeper in the regular scale of pay and to regularize service with effect from 1.7.1998.

3. The learned counsel for the petitioner submits that the petitioner receiving the fixed pay of Rs.335/- per month and in all together she is being paid a salary of Rs.1020/- per month on completion of 10 years of service. This is because of the reason that petitioner appointment has not been regularized. Thus the right accrued to the petitioner from out of petitioner services rendered in the school has been denied.

4. The learned counsel for the petitioner submits that the petitioner is part time sweeper in the time scale of full time sweeper, has been decided by this Hon'ble Court and the same was upheld by the Division Bench and the Government of Tamil Nadu issued several G.Os in the matter of part time employees or completion of 5 years/10 years of service in the temporary/daily wages bring them under the regular employment by fixing scale of pay applicable to the post.

5. The learned counsel for the petitioner submits that the W.P.No.18126 of 2006 - order dated 29.7.2008 Direction issued to regularize the service of the part time sweeper as full time employee on completion of 10 years of service. The above decision was confirmed by the division bench in W.A.No.230 of 2009 dated 3.8.2009 and the special leave petition filed by the department rejected by the order of Hon'ble Apex Court dated 1.2.2010. Implemented vide G.O.Ms.No.141 school education department, dated 19.5.2010 regularizing the service of the part time sweeper.

6.The learned Special Government Pleader appearing for the respondents 1 to 3 opposed the submissions of the petitioners and sought for dismissal of the writ petition.

7.The 3rd respondent filed their counter opposing the claim of the petitioner.

8.I heard Mr.S.N.Ravichandran, learned counsel for the petitioner and Mr.R.Govindasamy, learned Special Government Pleader for the respondents 1 to 3 and perused the entire materials available on record.

9.In this case, the G.O.Ms.No.22 dated 28.2.2006 is also applicable to the petitioner and cannot be interpreted that who are working in daily wages, qualified to appointment for the post. The contentions of the respondents is malafide and tainted with illegalities.

10.The learned counsel for the petitioner submits that the Government order (ID) No.87 School Education (V2) Department, dated 5.6.1998 Government issued order regularizing the service of part time sweeper as a full time sweeper -Tmt.A.Jayamani.

11.In view of the above orders, the petitioner is entitled to have the benefits of the G.O./Judgments for regularization of service as full time employee in view of service rendered from 1.7.1998 approved with effect from 1.7.1998, on completion of 10 years of service in the part time sweeper. But no such 10 years of service in the part time sweeper, but no such order is issued so far despite several representations. Therefore, the non regularization of the service of the petitioner is highly arbitrary and discriminatory violating articles 14 and 16 of the Constitution of India.

12.In the result:

a) This writ petition is allowed;

b) The respondents 1 and 2 are directed to regularize the service of the petitioner on her completion of ten years in the post of Part Time Sweeper and to bring the post into full time sweeper post, with all attendant and consequential benefits, including the arrears of salary and allowances arising thereof;

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

13. Since, this Court in several cases by applying the G.O.No.22 dated 28.02.2006 directed the respondents to regularize the employees. Thus being the case this petitioner is also entitled for regularizing his service. Accordingly this writ petition is liable to be allowed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

- 1.The Director of School Education,
(Higher Secondary)
College Road,
Nungambakkam,
Chennai - 600 006.
- 2.The Chief Educational Officer,
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Vellore - 632 009.
- 3.The District Educational Officer,
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