



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.2406 and 5033 of 2016

and

W.M.P(MD) .No.4481 of 2016

C.Subbammal ... Petitioner in W.P.(MD).No.2406 of 2016

P.Rathinam ... Petitioner in W.P.(MD).No.5033 of 2016

Vs.

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai.

2. The Director,
Directorate of School Education,
DPI Campus,
College Road,
Chennai.

3. The District Educational Officer,
Office of the District Educational Officer,
Karur District.

.. Respondents in both Writ Petitions

PRAYER IN WP(MD).No.2406 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to regularize the petitioner's service from the date of initial appointment as per G.O.(3D).No.36, School Education Department, dated 02.06.2015 with all service benefits with arrears as that of the similarly placed persons.

PRAYER IN WP(MD).No.5033 of 2016: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for records pertaining to G.O.(Ms).No.116, School Education Department dated 05.08.2011 and quash he same in respect of the date of regularization and directing the respondents to regularize the petitioner's service from the date of initial appointment as par with G.O.(3D).No.36, School Education Department, dated 02.06.2015 with all service benefits with arrears as that of the similarly placed persons.



For petitioner : Mr.R.Lakshmanan
(Both Writ Petitions)
For Respondents : Mr.M.Jeyakumar
Additional Government Pleader
(in both Writ Petitions)

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COMMON ORDER

Heard Mr.R.Lakshmanan, learned Counsel appearing for the petitioners in both the Writ Petitions and Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents in both the Writ Petitions.

2. The writ petitioners were appointed as part-time employees in the year 1992 through Employment Exchange. The petitioner in W.P.(MD).No.2406 of 2016 filed W.P.(MD).No.2839 of 2008, seeking a direction for passing appropriate order on her representation. Likewise the writ petitioner in W.P.(MD).No.5033 of 2016 filed W.P.(MD).No.8847 of 2009, seeking regularization.

3. This Court had directed the authorities to submit proposals for placing the writ petitioners on time scale basis and regularize them. Accordingly, the proposals were submitted and G.O.(Ms).No.116, School Education Department, dated 05.08.2011 came to be issued. The writ petitioners were duly regularized and benefits were directed to be paid to them from the date of issuance of the said Government order. The writ petitioner had obviously no grievance as their demand for regularization was duly met. But later in the case of one Solarasu, G.O.(3D).No.36, School Education Department, dated 02.06.2015 was issued regularizing his service with effect from 26.06.1992, that is, the date on which he joined in the Department.

4. The grievance of the writ petitioners herein is that they are similarly placed. In the case of R.Solarasu, the Department had chosen to grant regularization with effect from the date of his initial appointment as a part-time employee i.e., 26.06.1992, whereas the benefit of regularization is only from the date of issuance of G.O.(Ms).No.116, School Education Department i.e., 05.08.2011. This gross disparity in the respective dates of regularization is the cause of action for filing the present round of litigation.

5. No doubt the writ petitioners are justified in their <https://www.secmis.com.in/CaseDetails/> it is a clear case of discrimination. But on that sole ground, this Court cannot allow the writ petitions. There is no question of equality in illegality. The Hon'ble Supreme Court



of India in the decision reported in **2017 (4) SCC 113 (State of Tamil Nadu vs. A.Singamuthu)** had summarised the principles relating to regularization. The Hon'ble Supreme Court followed the earlier decision reported in **2014 (4) SCC 769 (School Education Department, State of Tamil Nadu vs. R.Govindasamy)** which specifically held that the service of part-time sweeper could not have been directed to be regularized. In view of the aforesaid two decisions of the Hon'ble Supreme Court one can come to a safe conclusion that the beneficial treatment afforded to R.Solarasu vide G.O.(3D).No.36 dated 20.06.2015 is clearly erroneous.

6. In that view of the matter, the claim of parity made by the present writ petitioners is also liable to be rejected. There is no merit in both Writ Petitions.

7. These Writ Petitions stand dismissed. No costs. Consequently, W.M.P(MD).No.4481 of 2016 is closed.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To:

1. The Secretary to Government,
School Education Department,
Secretariat, Chennai.
2. The Director,
Directorate of School Education,
DPI Campus, College Road,
Chennai.
3. The District Educational Officer,
Office of the District Educational Officer,
Karur District.

+ 1 cc TO The Special Government Pleader in SR Nos. 41732,41730

kmi

AE/SKN RSK/SAR2/08.02.2018/3P/5C

ORDER MADE IN
W.P. (MD) No.2406 and 5033 of 2016
and
W.M.P(MD) .No.4481 of 2016
10.01.2018