



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.10.2018

CORAM:

THE HONOURABLE Mr. JUSTICE S. VAIDYANATHAN

W.P. (MD) Nos. 7115, 7130 & 7134 of 2013

and

M.P. (MD) Nos. 2, 2 and 2 of 2013

W.P. (MD) No. 7115 of 2013:

- 1.K.Lingusamy
- 2.P.Sankar
- 3.A.Chandran
- 4.S.K.Lakshmana Perumal
- 5.Nachammal
- 6.Dhanammal

... Petitioners

Vs.

- 1.State Rep.by its Secretary,
Department of Education,
St.George, Fort,
Chennai 600 009.
- 2.The Director of School Education,
O/o.The Director of School Education,
Nungambakkam,
Chennai.
- 3.The Chief Educational Officer,
O/o. Chief Educational Officer,
Gandhi School Complex, Dindigul.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to regularize the services of the petitioners from the date of their appointment.

W.P. (MD) No. 7130 of 2013:

- 1.S.Duraiaraj
- 2.R.Raja Sekar
- 3.P.Shankar
- 4.V.Ramesh

... Petitioners

**Vs.**

1.State Rep.by its Secretary,
Department of Education,
St.George, Fort,
Chennai 600 009.

2.The Director of School Education,
O/o.The Director of School Education,
Nungambakkam,
Chennai.

3.The Chief Educational Officer,
O/o. Chief Educational Officer,
Near Clock Tower, Madurai Road,
Tiruchirappalli District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to regularize the services of the petitioners from the date of their appointment.

W.P. (MD) No.7134 of 2013:

1.P.Amirthalingam
2.C.Sekar
3.M.Sumathi
4.Rajakanni

... Petitioners

Vs.

1.State Rep.by its Secretary,
Department of Education,
St.George, Fort,
Chennai 600 009.

2.The Director of School Education,
O/o.The Director of School Education,
Nungambakkam,
Chennai.

3.The Chief Educational Officer,
O/o. Chief Educational Officer,
Pudukottai District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 to 3 to regularize the services of the petitioners from the date of their appointment.



For Petitioners : M/s.A.Rajini in all the cases
For Respondents : Mrs.S.Srimathi, Spl.G.P.
in all the cases

WEB COPY

COMMON ORDER

These Writ petitions have been filed to issue a Writ of Mandamus, directing the respondents 1 to 3 to regularize the services of the petitioners from the date of their appointment.

2.The case of the petitioners is that they have been appointed as Office Assistants, Night Watchmen, Watchmen, Sweepers, Water Supply Attendant, etc., by the Parents Teachers Association on consolidated pay and they are still working for more than 10 years. The Government of Tamil Nadu had issued G.O.Ms.No.47, School Education Department, dated 02.03.2012 whereby more than 5000 vacancies to the posts of Office Assistants, Night Watchmen, Watchmen, Sweepers, Water Supply Attendant, etc., were sought to be recruited on special scale of pay.

3.The grievance of the petitioners is that as they are working in the above said posts for more number of years, they should be given priority and their services should be regularized. Hence, they filed these Writ petitions for the aforesaid relief.

4.The learned counsel for the petitioners would submit that the issue raised in these writ petitions, is squarely covered by a judgment of this Court in ***Rajesh and another Vs. State of Tamil Nadu, Rep.by the Secretary to Government, Chennai and others in W.P.Nos.15774 of 2013 etc batch.***

5.Heard the learned counsel for the petitioners and the learned Special Government Pleader appearing for the respondents.

6.It is relevant to extract the operative portions of the above said order in ***W.P.Nos.15774 of 2013*** as under:

"9.I am unable to accept the reasoning of the respondents in this regard. Admittedly, there was a severe crisis whereby appointments to these posts was imminent and necessary for the welfare of the school children. It is also not in dispute that the respondents were contemplating to sanction the posts of Sweepers, Watchmen, Night Watchmen, Office Assistants, etc. It is in contemplation of such a sanction that the PTA had made these appointments, which was also of the objects of the PTA. While that being so, the Government's decision to appoint 5000 new persons to these posts without considering the plight of the ad hoc appointments, who were serving for a considerable time on meagre consolidated pay,



is totally irrational. The Government Order was also passed on the basis of the announcement made by the Hon'ble Chief Minister in the Legislative Assembly to appoint 5000 Sweepers and allied non teaching staff in order to maintain cleanliness and healthy environment in all schools in the State of Tamil Nadu and thereby, in the given situation the proper method to be adopted by the respondents would have been to regularize the ad hoc appointments and then resort to new appointments while trying to adjust the 5000 appointments announced by the Hon'ble Chief Minister. As such the respondents attempt to justify their rejection orders stating that the ad hoc appointments were not regular, is illegal. Accordingly, I reject the reasoning of the respondents in passing orders disallowing the claim of the ad hoc appointees.

10. At this juncture, Mr.K.Venkata Ramani, the learned Additional Advocate General appearing on behalf of respondents, on written instructions would bring it to my notice that pursuant to G.O.Ms.No.47, dated 02.03.2012 the Government had already appointed 1495 Watchmen and 2213 Sweepers on 23.11.2012 and the remaining 506 vacancies of Nigh Watchman and 786 Sweepers are yet to be filled up and that the vacancies will be filled after getting appropriate orders from the Government. While that being so, there is no impediment on the part of the respondents to consider the case of the ad hoc appointees who have been serving various schools. Since the respondents have taken a decision to appoint new candidates vide G.O.Ms.No.47, dated 02.03.2012, the petitioners will be entitled to be regularised with effect from 02.03.2012.'

7. In view of the decision in ***W.P.Nos.15774 of 2013 etc batch***, the petitioners are entitled to be regularized in their said posts and the first respondent / Secretary to Government, Department of Education, Government of Tamil Nadu, Chennai is hereby directed to regularize the service of the petitioners with effect from the date of their appointment within a period of six weeks from the date of receipt of a copy of this order.

8. Accordingly, these Writ petitions stand allowed. No costs. Consequently, connected M.Ps. are closed.

Sd/-
Assistant Registrar (AS)

/True Copy/



1.The Secretary,
Department of Education,
St.George, Fort,
Chennai 600 009.

2.The Director of School Education,
O/o.The Director of School Education,
Nungambakkam, Chennai.

3.The Chief Educational Officer,
O/o. Chief Educational Officer,
Pudukottai District.

4.The Chief Educational Officer,
O/o. The Chief Educational Officer,
Near Clock Tower, Madurai Road,
Tiruchirappalli District.

5.The Chief Educational Officer,
O/o. The Chief Educational Officer,
Gandhi School Complex,
Dindigul.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 88705

+ 4 CC TO Mr.A.RAJINI, ADVOCATE IN SR Nos. 88503, 88504, 88277 &
88502

NBJ

TE/SV/SAR-4 : 06/12/2018 : 5P/11C

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