



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.14928 of 2014

S.Thangammal

... Petitioner

-Vs-

1.State of Tamil Nadu,
Represented by its Secretary,
School Education Department,
Fort St. George, Chennai-600 006.

2.The Director of School Education,
Chennai-600 006.

3.The Chief Educational Officer,
Ramanathapuram.

4.The District Educational Officer,
Ramanathapuram.

... Respondents

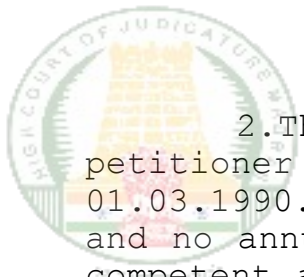
Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to consider and pass order on the proposal submitted by the fourth respondent for regularising the petitioner's service from the date of appointment as issued in G.O.(2D)No.28, School Education Department, dated 23.04.1999 and the proceedings of the fourth respondent dated 21.11.2009 in Na.Ka.No.1409/A1/2004 in respect of similarly placed persons.

For Petitioner : Mr.R.Venkatesan

For Respondents : Mrs.S.Srimathy,
Special Government Pleader.

ORDER

The relief sought for in the present Writ Petition is for a direction to direct the respondents to consider and pass order on the proposal submitted by the fourth respondent for regularising the writ petitioner's service from the date of appointment as issued in G.O.(2D)No.28, School Education Department, dated 23.04.1999 and the proceedings of the fourth respondent dated 21.11.2009 in Na.Ka.No.1409/A1/2004 in respect of similarly placed persons.



2.The learned counsel appearing on behalf of the writ petitioner states that he was appointed as Water Carrier on 01.03.1990. He further states that his services are not regularised and no annual increments were granted to her. In this regard, the competent authority submitted proposals to the higher authority for grant of regularisation. However, the benefit of regularisation has not been extended.

3.The learned counsel appearing on behalf of the writ petitioner further states that the proposals submitted by the competent authority were kept pending and the writ petitioner sent several representations to consider her case for grant of regularisation. In spite of repeated requests, no decision has been taken. Thus, the writ petitioner is constrained to move the present Writ Petition.

4.The learned Special Government Pleader appearing on behalf of the respondents opposed the contentions by stating that the writ petitioner was appointed as Water Carrier on 01.03.1990 at Kavanur Government Higher Secondary School on part time basis. All along the writ petitioner was working as part time employee and she was allowed to retire from service at the time of attaining the age of superannuation on 30.06.2009. Though the special time scale of pay was given to the writ petitioner, the post, in which the writ petitioner was working, was not a sanctioned one and no regularisation was granted so far. The proposals were sent in respect of 11 persons, working in the special time scale of pay, more specifically, in the post of Watchman, Sweeper and Water Carrier and the writ petitioner's name was also proposed along with the recommendations. However, the Government has not passed any orders in this regard, granting benefit of regularisation.

5.This Court is of the considered opinion that the proposals were sent by the respondents for consideration. The Government has to consider the proposal and take a decision in the matter of regularisation by relaxing the relevant rules, in view of the fact that the writ petitioner was not appointed in accordance with the recruitment rules in force, such a direction to grant regularisation cannot be granted by this Court. In the case of the writ petitioner, she was not appointed in accordance with the recruitment rules in force. Thus, the appointment itself was irregular. Under these circumstances, the Government alone is competent to decide the issue and the Court cannot issue any direction either to grant regularisation or to recommend the case of the writ petitioner for regularisation. It is administrative prerogative Government to grant relaxation in exceptional situation, where there is a gross injustice and the facts and circumstances as well as the irregularity are to be considered by the Government, while passing an order.



6.This being the factum, the relief as such sought for in the present Writ Petition cannot be granted. However, it is left open to the writ petitioner to approach the Government for grant appropriate relief, if she is otherwise eligible.

7.With these observations, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS-)

To

1.The Secretary,
State of Tamil Nadu,
School Education Department,
Fort St. George, Chennai-600 006.

2.The Director of School Education,
Chennai-600 006.

3.The Chief Educational Officer,
Ramanathapuram.

4.The District Educational Officer,
Ramanathapuram.

+1 CC to M/s.R.VENKATESAN, Advocate (SR-77079[F] dated 24/07/2019)
+1 CC to M/s.SPL GP (SR-77305[F] dated 24/07/2019)

W.P. (MD) No.14928 of 2014
23.07.2019

Myr

ES/31.07.2019/3P/7C