

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :07.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 18510 OF 2013

1.J.Ganapathy
2.S.A.Murugan
3.K.Sokkanathan

.. Petitioners

- Vs -

1.The Secretary, Educational Department,
Government of Tamilnadu,
Fort St.George, Chennai.

2.The Director of Public Library,
Directorate of Public Library,
737/1, Anna Salai, Chennai-2.

3.The District Library Officer,
Dharmapuri District Library Council,
Dharmapuri District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, directing the third respondent to regularise the petitioners with monetary and other consequential service benefits including the arrears of pay in the revised scale by implementing the G.O.Ms.No.22 dated 28.2.2006.

For Petitioners: M/S.V.Vijayakumar

For Respondents: Mr. S.Sureshkumar, G.A. For R1
: Mr.C.Munusamy, Spl.G.P. For RR2 & 3

ORDER

This Writ Petition was filed by the petitioners to direct the third respondent to regularise the petitioners with monetary and other consequential service benefits including the arrears of pay in the revised scale by implementing the G.O.Ms.No.22 dated 28.2.2006.

2.The case of the petitioners is that the petitioners are appointed as sweepers in Dharmapuri District Libraries through the Employment Exchange on 26.06.2002, 21.06.2002 & 24.06.2002

at Thenkarai Kotai, Sinthalpadi & Kadathur Villages at Dharmapuri District respectively. They have been assigned work of keeping the Library premises inside as well as outside in neat and clean manner and provide drinking water to the visitors. At the time of appointment they have been paid Rs.295 and now they are getting a sum of Rs.735/- as salary per month. In the year 2006, the Government of Tamil Nadu had passed an order in G.O.Ms.NO.22 dated 28.02.2006 by announcing that the services of employees working in various Government Departments on daily wages basis who have completed more than 10 years of service as on 01.01.2006 will be regularised. According to the petitioners, they have completed 11 years of services as daily wages in the Public Libraries at Dharmapuri. Further on 01.10.2009, the Government of Tamil Nadu, Finance Department (salary) had fixed Special Time Scale of Pay (Sirappu Kalamurai Oothiyam) of Rs. 1300-3000 and Thara Oothiyam of Rs.300/- for the sweepers who are on daily wages or consolidated basis and the said announcement was published as Arasaani Nilai No.385 dated 01.10.2009. In order to avail such benefits, the petitioners made a representation on 15.03.2012, however the representation was not considered and, therefore, the petitioners were constrained to file writ petitions in WP.NOs.16420, 16416 16419 of 2012. This Court by its order dated 29.06.2012 directed the 3rd respondent to consider their representation dated 15.03.2012 within period of six weeks from the date of receipt of the order. In compliance of this Court's order dated 29.06.2012, the 3rd respondent had rejected the said representation by letter dated 11.09.2012. Thereafter, the petitioners, in order to avail such benefits mentioned in the G.O.Ms.NO.22 dated 28.02.2006, made another representation. Till date the representation has not been considered. Hence, the present writ petition was filed with the above said prayer.

3.Learned counsel appearing for the petitioners submitted that though the earlier representation was rejected with regard to the special time scale of pay, however the present writ petition was filed in order to avail the benefits made in GO.Ms.NO.22 dated 28.02.2006. However the said G.O. prescribed the qualification that whoever completed 10 years of service as on 1.1.2006, they are entitled for pay revision. Though the petitioners were appointed in the year 2002, they had not completed 10 years of service as on 1.1.2006. However, similarly situated persons who have not completed 10 years of service, the respondents have considered their representation and regularised their services. Hence, this Court may issue a direction to the respondents to pass appropriate orders on the petitioners' representation within a reasonable time as fixed by this Court.

4. A counter affidavit has been filed on behalf of the 3rd respondent and denied all the averments made by the petitioner in their affidavit.

5. This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

6. Admittedly the petitioners filed writ petitions before this Court in order to avail the benefits of Special Time Scale of Pay in WP.Nos.16420, 16416 16419 of 2012 and this Court by its order dated 29.06.2012 directed the 3rd respondent to consider their representation dated 15.03.2012 within period of six weeks from the date of receipt of the order. In compliance of this Court order dated 29.06.2012, the 3rd respondent had rejected the said representation by letter dated 11.09.2012. Till date the petitioners have not challenged that order. Further GO.Ms.NO.22 dated 28.02.2006 has prescribed that persons, who had completed 10 years of service as on 1.1.2006, are entitled for pay revision. However in the present case, the petitioners were appointed only in the year 2002 and, hence, the said Government Order is not applicable to the case of the petitioners, as they have not completed 10 years of minimum qualifying service. Such being the case, the petitioner cannot seek a mandamus as against the Government.

7. In the above backdrop of the facts and circumstances of the case, this Court is of the considered view that no mandamus, as sought for could be issued. Accordingly the present writ petition is dismissed. There shall be no order as to costs. However liberty is granted to the petitioners to work out their remedy in the manner known to law, if so advised.

Sd/-

Assistant Registrar (CS-III)

//True copy// सत्यमेव जयते

Sub Assistant Registrar

jrs

To

1.The Secretary, Educational Department,
Government of Tamilnadu,
Fort St.George, Chennai.

2.The Director of Public Library,
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3.The District Library Officer,
Dharmapuri District Library Council,
Dharmapuri District.

+1cc to Government Pleader SR.No.29259

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BS (CO)
GMY (18/11/2020)



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