

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2020

CORAM:

THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.NO.21105 OF 2012

N.Balaji

... Petitioner

Vs.

1.The Director of School Education
College Road,
Chennai - 600 006.

2.The Chief Educational Officer
Kancheepuram District,
Kancheepuram.

3.The District Educational Officer
Kancheepuram District,
Kancheepuram.

4.Muthukumaraswamy Government
Higher Secondary School
Lakshmipuram,
Chrompet, Chennai - 600 044.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, to direct the respondents to extend the benefit of G.O.Ms.No.111, Education (R1) Department, dated 09.05.2012 to the petitioner herein by granting regularisation of service, with time scale of pay from the date of initial appointment from September 1999 with all monetary and service benefits.

For Petitioner :Mr.T.Chandrasekaran

For Respondents:Mr.P.Raja
Government Advocate (Education)

O R D E R

The petitioner was appointed as Office Assistant on consolidated pay through Parents Teachers Association in the fourth respondent school in September 1999. He was drawing a salary of Rs.500/- per month upto the year 2000 and thereafter, it was increased to Rs.3,250/- per month. While the matter stood thus, the Government passed order in G.O. (Ms) No.88, School Education Department, dated 01.04.2010 for fixing the employees in time scale of pay. In the meantime, the Government passed order in G.O.(Ms) No.22, Personnel and Administrative Reforms (P) Department, dated 28.02.2006 to regularise the services of the daily wagers and those, who rendered services on consolidated pay, on completion of ten years. The persons, who were not regularised as per the said Government Order have approached this Court and pursuant to the orders passed by this Court, they were regularised.

2. Subsequently, the Government passed order in G.O. (Ms) No.111, School Education Department, dated 09.05.2012, in and by which, those who have not completed ten years of service, were directed to be regularised in service. The petitioner seeks extension of similar benefit to him also. According to the petitioner, he served in the fourth respondent school between 1999 and 2013 and that he is entitled to the benefit and therefore, he made a representation on 18.07.2012. The representation was not considered and hence, aggrieved over the same, the petitioner is before this Court.

3. The learned Government Advocate appearing for the respondents would vehemently contend that the petitioner was appointed through Parents Teachers Association and not by the competent authority. Such appointment is also not through employment exchange or by regular selection method. A person appointed through Parents Teachers Association from its fund is not entitled to be regularised as per G.O. (Ms) No.22 as well as G.O. (Ms) No.111 and G.O. (Ms) No.47, Education Department, dated 02.03.2012. Hence, the petitioner, being unqualified is not entitled to regularisation. Therefore, he seeks dismissal of the writ petition.

4. I have considered the rival submissions.

5. Admittedly, the petitioner was engaged as an Office Assistant through the Parents Teachers Association of

the fourth respondent school in the year 1999 and he continued as such till 2013. Originally, he was paid from the funds available in the Parents Teachers Association. Further, a Division Bench of this Court HOME SECRETARY, ST.GEORGE FORT, CHENNAI AND OTHERS VS. G.SUGUMARAN [2019 (4) LLJ 451 (MADRAS)] has considered the persons appointed through Parents Teachers Association and were paid through the funds available with them also on par with persons who are appointed by the competent authority. Para 45 of the said judgment reads as under:

"45. Inasmuch as 5014 posts have already been sanctioned, contention that the Parent Teachers Association, have appointed sweepers, attendants and watchmen etc., against, not sanctioned posts cannot be accepted. At this juncture, it is to be noted that the Government have not filled up those posts. Even taking for granted that the sweepers, watchmen and attendants have not been appointed by the method contemplated, having sanctioned full time posts of basic service, Government could have very well applied the same yardstick, as done in the case of Vocational Instructors, who were appointed by the Parent Teachers Association, to the case of sweepers, watchmen and attendants post, required to be filled up. In view of the contention that 5014, have been sanctioned, in basic service, Government cannot contend that there were no sanctioned posts. It is the case of the government, that there was a stay, in filling up the posts and only in G.O. (Ms) No.47 School Education (R1) Department dated 2.3.2012, government have stated that in view of creation of 5000 posts in basic service, in schools, 5014 basic service posts, already sanctioned, have been surrendered. Therefore, it cannot be contended that the appointment of the respondents as sweepers, watchmen etc. were part time. Such contention goes contrary to the surrender of 5014 posts and creation of 5000 posts."

6. On considering the above judgment, it is clear that the persons appointed through Parents Teachers

Association and were continued in service for ten years or more are also entitled to be considered for regularisation. The representation dated 18.07.2012 of the petitioner was not considered. However, from the year 2013, the petitioner was disengaged.

7. Considering the facts and circumstances of the case, a direction is issued to the first respondent to consider the representation of the petitioner dated 18.07.2012 in the light of G.O.Ms.No.111, Education Department, dated 09.05.2012, G.O.Ms.No.47, School Education Department, dated 02.03.2012 and G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006 and in the light of the latest judgment of the Division Bench of this Court in HOME SECRETARY, ST.GEORGE FORT, CHENNAI AND OTHERS VS. G.SUGUMARAN [2019 (4) LLJ 451 (MADRAS)] and pass orders within a period of four weeks from the date of receipt of a copy of this order.

8. The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

TK

To

1.The Director of School Education
College Road,
Chennai - 600 006.

2.The Chief Educational Officer
Kancheepuram District,
Kancheepuram.

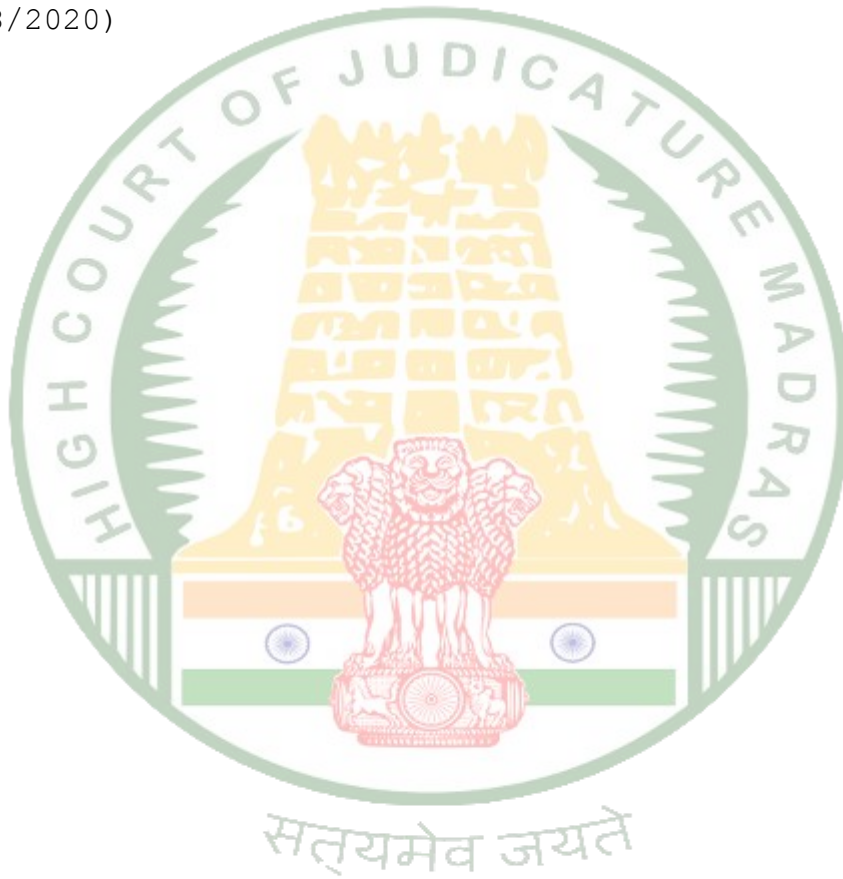
3.The District Educational Officer
Kancheepuram District,
Kancheepuram.

4.Muthukumaraswamy Government
Higher Secondary School
Lakshmipuram,
Chrompet, Chennai - 600 044.

+1cc to Mr.T.Chandra Sekaran, Advocate, S.R.No.13147
+1cc to the Government Pleader, S.R.No.14204

W.P.NO.21105 OF 2012

MR (CO)
CB (06/08/2020)



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