

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :23.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.21680 OF 2013

Narayanammal

.. Petitioner

- Vs -

1.The Secretary to Government,  
School Education Department,  
Secretariat,  
Chennai 600 009.

2.Director of School Education,  
D.P.I.Campus,  
College Road,  
Chennai 600 006.

3.The Chief Educational Officer,  
Salem District,  
Salem.

4.The District Educational Officer,  
Salem District, Salem.

5.The Head Master,  
Govt. High School,  
Achanguttapatti 636 122,  
Sukkampatti (Via)  
Salem District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of Mandamus, to direct the respondents to sanction the pension and retirement benefits payable to the petitioner in the light of the judgment in 2007 (1) C.L.T. 412.

For Petitioner : Mr.M.Rajendiran

For Respondents: Mr. S.Sureshkumar, G.A., (Edn)

## ORDER

This writ petition has been filed by the petitioner to direct the respondents to sanction the pension and retirement benefits to the petitioner in the light of the judgment in 2007 (1) C.L.T. 412.

2.The case of the petitioner is she petitioner was appointed as part time sweeper in the 5<sup>th</sup> respondent school on 8.12.1980 and she was continuously working without any break in service. After rendering 21 years of service, the petitioner retired from service on 30.04.2001 on superannuation and thereafter, she made representation to the respondents for sanction of pension. It is the further case of the petitioner that in her entire service she received only merge salary and as per the respondents records her service period was recorded correctly. However the petitioner was working as a part time sweeper and even then her service was not regularised. According to the petitioner, she is entitled to get pension under the Tamil Nadu Pension Rules, 1978, and further the 5<sup>th</sup> respondent has forwarded the representation to the 4<sup>th</sup> respondent vide his proceedings dated 22.2.2013 and so far the respondents have not passed any orders on the representation.

3.Learned counsel appearing for the petitioner submits that though the petitioner has rendered 21 years of service as a part time sweeper in the 5<sup>th</sup> respondent school, her services were not regularised. It is further submitted that the government has passed various orders for regularization of the candidates like the petitioner in the post of Office Assistant. The Madurai Bench of this High Court has passed an order in a batch of writ petitioners in W.P.(MD) No.6700 to 6705 of 2008, dated 4.12.2008 which clearly reveal that similarly situated persons like the petitioner were directed to be appointed in the regular time scale of pay in accordance with G.O.Ms.No.528 dated 10.10.2008 on the basis of their seniority and such order was not complied with by the respondents, the petitioners therein filed contempt petition before this Court and thereafter their services were regularised. Hence the petitioner is entitled to receive the pension benefits as the per the decision of this Court reported in 2007 (1) C.L.T.412 [S.Subramanian/Sankaran Vs.Govt. Of Tamil Nadu, Revenue Dept., and ors.]. Accordingly he prays for allowing the writ petition.

4.A counter affidavit has been filed by the 4<sup>th</sup> respondent and learned Government Advocate appearing for the respondents submitted that the petitioner appointment is purely on part time basis and her services were not regularised and any order issued by this school will not bind the respondents and unless the petitioner is absorbed in the regular time scale of pay, she

is not entitled to any retirement benefits as per the existing Government Rules.

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

6.On perusal of the entire records it reveals that the petitioner was appointed as part time sweeper in the 5<sup>th</sup> respondent school and retired from service after attaining superannuation, which is not in dispute. Such being the case, there is no question for considering the case of the petitioner for pension. The balance of convenience is definitely not in favour of the petitioner and further, the petitioner does not come under purview of G.O.Ms.NO.247 dated 3.10.2012 and therefore she is not entitled to any relief as prayed for. Therefore, the petitioner cannot seek a mandamus against the Government. 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.

7. Accordingly the present writ petition stands dismissed. However there shall be no order as to costs.

Sd/-  
Assistant Registrar (CCC)

//True copy//

Sub Assistant Registrar

jrs

To

- 1.The Secretary to Government,  
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Achanguttapatti 636 122,  
Sukkampatti (Via)  
Salem District.

+1cc to Government Pleader SR.No.31312

W.P. NO.21680 OF 2013

RN(CO)  
GMY(09/11/2020)