

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.19947 & 19948 of 2014

- 1 K.Senthilkumar
S/o.P.Karuppan, 2nd Ward Arunthathiyar Street,
Engineering College Post Salem.
 - 2 S.Ramalingam
S/o.Sennan, Adi Dravidar Colony,
G.H.School Backside, K.Morur Salem District.
 - 3 P.Ramasamy
S/o.Perumal,
Sweeper Colony, Koraikadu, Thevoor Post,
Sankagiri Taluk, Salem District.
 - 4 P.Govindaraj
S/o.Perumal,
Mechery Girls Higher Secondary School,
Mechery, Salem.
 - 5 R.Panchavarnam
W/o.Ganesan,
Gandhi Nagar Girls Higher Secondary School,
Kolathur Mettur Taluk, Salem District.
- ... PETITIONERS IN
W.P.No.19947/2014
- 1 M.Mallika
W/o.Muthusamy,
2nd Ward Kuppanpatti Road,
Jalagandapuram P.O., Mettur Taluk,
Salem District.
 - 2 Chenniammal
W/o.Mariappan,
2nd Ward Kuppanpatti Road,
Jalagandapuram P.O., Mettur Taluk,
Salem District.
- ... PETITIONERS IN
W.P.No.19948/2014

Vs.

- 1 The Secretary to Government,
School Education Department,
Fort St George, Chennai-9.
- 2 The Director of School Education,
College Road Chennai-6.
- 3 The District Educational Officer,
Sankagiri, Salem District. ...RESPONDENTS IN BOTH W.Ps.

Prayer in W.P. No.19947 of 2014:

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondents to count the services of the petitioners from the date of their respective initial appointment as qualifying service for pension purpose under the Old Pension Scheme and to issue GPF Account Numbers to the petitioners under the Old Pension Scheme for their pensionary benefits.

Prayer in W.P.No.19948 of 2014:

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the respondents to count the services of the petitioners from the date of their respective initial appointment as qualifying service for pension purpose.

For Petitioners : Mr.R.Prem Narayan

For Respondents : Mr.A.Rajaperumal, A.G.P.

COMMON ORDER

As the prayer sought for in both writ petitions and the issue involved in both writ petitions are one and the same, this Court is inclined to pass common order.

2. The writ petitioners who were initially appointed as part time Sweepers served in unsanctioned post under the control of the third respondent, prior to 1.4.2003, seeks half of the past service rendered by the petitioners as Part Time Sweeper shall be taken into account for the purpose of pensionary benefits. As the request of the petitioners herein was not considered by the respondents, the petitioners have approached this Court in the present writ petition.

3. The service particulars of the petitioners as stated in typed set of papers are as follows:

SL. No	W.P.No.	Name of the petitioners	Post held	Mode of Appointment	Date of joining in service	Date of completion of 10 years
1.	19947/2014	K.Senthil Kumar	Sweeper	Emp. office	1.9.1994	31.8.2004
2.	- do -	S.Ramalingam	- do -	Direct Appt.	2.4.1993	1.4.2003
3.	do -	P.Ramasamy	- do -	Emp. Office	1.6.1994	31.5.2004
4.	- do -	P.Govindaraj	do -	- do -	21.9.1993	20.9.2003
5.	do -	P.Panchavarnam	- do -	do -	22.9.1994	21.9.2004
6.	19948/2014	M.Malliaka	do -	Direct Appt.	1.1.1984	31.12.1993
7.	do -	M.Chenniamma	- do -	Emp. Office	27.2.1993	26.2.2003

4. The learned Additional Govt. Pleader and the learned Government Advocate appearing for the respondents submitted that the issue pertains to the 50% of the past service rendered by the petitioners prior to regularisation was referred to the Hon'ble Full Bench of this Court and as per the judgment of the Full Bench delivered in a batch of writ appeals in W.A.No.158 of 2016 etc., dated 3.12.2019, M.Mallika and M.Chenniammal, writ petitioners in W.P.No.19948 of 2014 falls under clause (iii) of para 46 of the aforesaid judgment. The petitioners in W.P.No.19947 of 2014 are not eligible for the relief sought for in the writ petitions. The relevant portion of the judgment of the Hon'ble Full Bench reads as follows:

'46 (iii) In case, a government employee/servant had also rendered service in non-provincialised service, or on consolidated pay or on honorarium or daily wage basis and if such services were regularised before 1.4.2003, half of such service rendered shall be counted for the purpose of conferment of pensionary benefits.

(v) Those government servants who were appointed in the aforesaid four categories before 01.04.2003 but were absorbed in regular service after 01.04.2003 will not be entitled to count half of their past service for the purpose of determination of qualifying service for pension.'

5. Considering the facts and circumstances of the case and in the light of the judgment rendered by the Hon'ble Full Bench cited supra, the first respondent is directed to consider the representation of M.Mallika and M.Chenniammal, writ petitioners in W.P.No.19948 of 2014 and pass orders on merit and in accordance with law, as expeditiously as possible preferably within a period of 12 weeks from the date of receipt of copy of the order. Insofar as the petitioners in W.P.No.19947 of 2014, they are not entitled for the relief sought for in the writ petition.

6. Accordingly, W.P.No.19947 of 2014 is dismissed. W.P.No.19948 of 2014 is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
School Education Department, Fort St George, Chennai-9.
- 2.The Director of School Education, College Road Chennai-9.
- 3.The District Educational Officer, Sankagiri, Salem District.

+1 cc to M/s.R.PremnaNarayanan, Advocate Sr.No. 12037
+1 cc to The Government Pleader, Sr.No. 17399

W.P.No.19947 & 19948 of 2014

RK(CO)
RMP(30/09/2020)

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