

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2800 of 2021

M. Rani

... Petitioner

-VS-

1. The State of Tamil Nadu
Rep.by the Secretary to Government
Education Department,
Secretariat,
Chennai 600 009.
 2. The Director of School Education
College Road,
Chennai 600 006.
 3. The District Educational Officer
Ariyalur District,
Ariyalur.
- ... Respondents

Prayer: Writ Petitions filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus to direct the respondents to regularise the petitioner's service from the date of appointment on 01.01.1999 and sanction all monetary and service benefits payable to the petitioner based on the petitioner's representation dated 30.09.2020.

For Petitioner : Ms.S.Vinodha

For Respondents : Mr.P. Raja
Government Advocate

ORDER

This writ petition has been filed to direct the respondents to regularise the petitioner's service from the date of appointment on 01.01.1999 and sanction all monetary and service benefits payable to the petitioner based on the petitioner's representation dated 30.09.2020.

2. Mr.Raja, learned Government Advocate takes notice for respondents. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. It is the case of the petitioner that she was appointed as Part Time Sweeper in the District Educational Office, Ariyalur on 01.01.1999. Though the petitioner is working as a part time sweeper for long time, her service was not regularised by the Education Department. She made several representations to the authorities concerned to regularise her service for permanent post by citing various Government orders passed by the Government in regularisation of the candidates like her. She was appointed to the post of part time sweeper in the District Educational Officer Ariyalur, Ariyalur District which is under the control of Education Department. Though she has put in 21 years of service she was categorised as part time and used for all menial service throughout the day by the department. Her entire family is depending upon the income earned from the sweeper post. Though she was appointed in the year 1999, his service has not been absorbed till now. The Government has passed various orders for regularisation of the sweeper by considering the long standing service. The Government has passed various orders for regularisation of the sweeper by considering the long standing service. The G.O.Ms.No.22 dated 28.02.2006 was passed for the regularisation of the candidates who have put in 10 years or more than that of years of service. Thereafter the Government passed various orders regularisation to the sweeper those who are working long time continuously. In view of the said order the petitioner is also entitled to be regularised. Several request have been sent to the third respondent in this regard but no response.

4. It is further averred that temporary sweepers have been regularised by the Government by relaxing Tamil Nadu Service Rules with respect to communal rotation, procedure of appointment, age relaxation and educational qualification. Madurai Bench of Madurai Bench of Madras High Court has passed an order in the batch of writ petitions in W.P.Nos.6700 to 6705 of 2008 dated 04.12.2008 that the writ petitioners are to be appointed to regular time scale of pay in accordance with G.O.Ms.No.528 dated 10.10.2008 based on the seniority. The Government has passed an order in G.O.(2D) No.32 dated 26.03.2010 and G.O.Ms.No.88 dated 01.04.2010 to regularise the candidates like her. The G.O.Ms.No.99 dated 08.06.2011 has been passed by the School Education Department. With respect to Perambalur, Trichy and Ariyalur Districts the part time sweepers have been absorbed in the full time scale pay. Thus, the Government has passed several orders in regularising the candidates those who are working as part time for long period. The petitioner is also working as a sweeper in the third respondent from January 1999 onwards to till date without any gap. The said GO is applicable to the petitioner also. Though several representations has been made there is no response hence the petitioner has come forward with the mandamus seeking disposal of her representation dated 30.09.2020.

5. At this juncture, it is represented by Mr.P.Raja, learned Government Advocate that the request of the petitioner for reinstatement has been considered and rejected by the respondents as early as on 25.06.2019 and without challenging the said rejection, the petitioner has come forward with the present Writ Petition for a mandamus.

6. In view of the above submission, in the considered opinion of this Court, the 2nd Writ Petition with the same cause of action, which already attained finality will not lie, before this Court and therefore, the direction sought for cannot be blindly issued. Hence, the relief sought for by the petitioner stands rejected and accordingly, the writ petition is dismissed. It is needless to mention that it is open to the petitioner to challenge the rejection order passed by the respondents, if so advised. No costs.

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

dpq

To

1. The Secretary to Government
Education Department,
Secretariat,
Chennai 600 009.
2. The Director of School Education
College Road,
Chennai 600 006.
3. The District Educational Officer
Ariyalur District,
Ariyalur.

+1cc to Government Pleader SR.No.20817

W.P.No.2800 of 2021

KV(CO)

GMV(13/07/2021)