



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2021

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

W.P. (MD) Nos. 10777 & 10778 of 2019

A.Perumal

... Petitioner in W.P.(MD) No.10777 of 2019

V.Chelladurai

... Petitioner in W.P.(MD) No.10778 of 2019

Vs.

1.State of Tamil Nadu

Represented by its Secretary,
Education Department,
Secretariat,
Chennai.

2.The Director of School Education,
Chennai - 6.

3.The District Educational Officer,
Cheranmahadevi,
Tirunelveli District.

... Respondents in both Wps.

Prayer in W.P. (MD) No. 10777 of 2019:

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus directing the respondents to pass an order of regularisation on completion of 10 years of service i.e, with effect from 07.08.2001 with arrears of salary as per the order passed by this court in W.P.(MD). No. 1364 of 2007 dated 28.04.2008 with all consequential benefits and pass orders.

Prayer in W.P. (MD) No. 10778 of 2019:

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus, directing the respondents to pass an order of regularisation of A. Petchiammal, on completion of 10 years of service i.e, with effect from 11.07.2000 with arrears of salary as per the order passed by this court in W.P.(MD). No. 1365 of 2007 dated 28.04.2008 with all consequential benefits and pass orders.

For Petitioner : Mr.V.Panneerselvam
For Respondents : Mr.K.S.Selvaganesan
Counsel for State



ORDER

The petitioner in W.P.(MD)No. 10777 of 2019 had been appointed as a part time Scavenger on and from 07.08.1991 and the wife of the petitioner in W.P.(MD) Nos.10778 of 2019 had been appointed as a part time Scavenger on and from 11.07.1990. According to them, G.O.Ms.No. 528, Personnel and Administrative Reforms Department dated 10.10.1998, entitles them for appointment in regular time scale of pay in Tamil Nadu Basic Services.

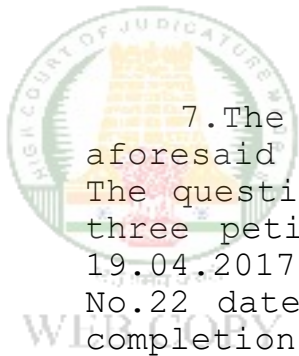
2.While this was so, there was a ban on appointments to Government posts and thus the regularisation of their appointments could not be proceeded with. However, upon issuance of a clarification that the ban would not apply to basic service posts such as Gardeners, Sweepers and Watchmen, their request for regularisation stood revived.

3.Thus, they would aver that they were entitled to regularisation as per G.O.Ms.No.22, Personnel and Administrative Reforms Department dated 28.02.2006 that provided for the regularisation of services of employees in the cadre of the petitioners upon their completion of 10 years of service with time scale of pay. They thus seek a mandamus directing the respondents to regularize their services upon completion of 10 years, that is, with effect from 07.08.2001 and 11.07.2000 respectively with all consequential benefits.

4.The very issue as raised by the petitioners came to be considered in W.P.No.4101 of 2007 in the case of three petitioners. One petitioner in that case was a part time sweeper as the petitioners before me, whereas the other two were employed as sweeper-cum-watchman.

5.Referring to G.O.Ms.No.22 dated 28.02.2006, the writ petition came to be allowed, citing orders passed in the cases of similarly placed persons by the Madurai Bench of this Court in W.P. (MD) No.11707 of 2006, order dated 22.12.2006. The latter order had been carried in appeal in W.A.(MD).No.391 of 2007 and by judgment dated 25.10.2007, the writ appeal also came to be dismissed with a direction issued to the respondents for compliance of the order passed in the writ petition within four weeks.

6.The same direction, for regularisation of similarly placed employees had also been issued by a learned Single Judge in W.P. (MD).No.11707 of 2006, that came to be confirmed in W.A. 391 of 2007, by order dated 25.10.2007. It was upon citing the aforesaid orders, that W.P. No.4101 of 2007, came to be allowed on 24.01.2008, with a direction to the respondents to regularise the services of the petitioners upon their completion of 10 years of service with time scale of pay.



7.The respondents thus regularised the services of the aforesaid three petitioners, though only from a subsequent date. The question of effective date came to be challenged by one of the three petitioners in W.P.(MD) No. 5953 of 2016. By order dated 19.04.2017, a learned Single Judge of this court, quoting G.O.(Ms) No.22 dated 28.02.2006 granting regularisation after 10 years of completion of service, allowed that writ petition.

8.A time frame was fixed within which time the direction was to be complied with. The aforesaid order has also come to be confirmed by a Division Bench in W.A(MD).No. 457 of 2018, by order dated 18.09.2018. The order passed by the learned Single Judge in W.P.No. 4101 of 2007 has been quoted therein as having attained finality.

9.The remaining two writ petitioners have also filed writ petitions in W.P.No(MD).430 and 431 of 2019, which have been allowed by this court on 01.04.2019. No writ appeal appears to have been filed in this regard and the orders of the learned Single Judges have attained finality.

10.There is thus no question in my mind that the services of the petitioner are liable to be confirmed upon completion of ten years of their service and the prayer, in fact, is precisely to that effect

11.In light of the narration as aforesaid, the mandamus as sought for is issued. There is a direction to R2 and R3 to pass an order of regularisation of services of both petitioners with effect from 07.08.2001 and 11.07.2000 respectively, compute arrears of salary and all other consequential benefits and pay over the same. The aforesaid exercise shall be completed within a period of 8 weeks from date of uploading of a copy of this order upon the official website of this court. The writ petitions are disposed as above. No costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mnr

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Secretary,
State of Tamil Nadu
Education Department,
Secretariat,
Chennai.

2.The Director of School Education,
Chennai - 6.

3.The District Educational Officer,
Cheranmahadevi,
Tirunelveli District.

+1 CC to M/s.SPL.GP (SR-34271[F] dated 12/11/2021)

W.P. (MD) Nos. 10777 & 10778 of 2019
11.11.2021

RS (07.12.2021) 4P 5C