



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAISWAMY

AND

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.A(MD)No.1691 of 2021

WEB COPY

S.Chelladurai

... Appellant/Petitioner

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Department of School Education,
Secretariat,
Chennai.

2.The Director of School Education,
Chennai.

3.The Chief Educational Officer,
Pudukkottai.

4.The District Educational Officer,
Pudukkottai District.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 17.06.2021 made in W.P(MD)No.170 of 2019 on the file of this Court.

Prayer in WP(MD). 170/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Mandamus thereby direct the respondents to refix the pension and grant attendant monetary benefits by treating the Petitioners service as full time with effect from 01.09.1991,...

For Appellant

: Mr.B.Sekar

For Respondents

: Mr.P.Thilak Kumar

Government Pleader



JUDGMENT

(Judgment of the Court was delivered by **M.DURAISWAMY, J.**)

Challenging the order passed in W.P(MD)No.170 of 2019 dated 17.06.2021, the Writ petitioner has filed the above Writ Appeal.

WEB COPY

2.The appellant filed the Writ Petition to issue a Writ of Mandamus, directing the respondents to re-fix the pension and grant attendant monetary benefits by treating the appellant's service as full time with effect from 01.09.1991.

3.The appellant was appointed as a part time Waterman-cum-Sweeper in Puthambur Government High School by the proceedings of the third respondent, dated 17.07.1981. Subsequently, his service was regularised by the Government and he was appointed as full time night Watchman-cum-Waterman by the proceedings of the fourth respondent, dated 18.01.2002. The appellant was given selection grade in the post of Night Watchman by the proceedings of the fourth respondent, dated 11.02.2014 with effect from 26.01.2012. The appellant retired from service on 01.06.2014 on attaining the age of superannuation. As per the Government Order, the appellant became regular employee on completion of 10 years from the date of initial appointment as part-time employee. The appellant has become full time employee with effect from 01.09.1991 and entitled to monetary benefits including revision of pension. Since the appellant's representations were not considered by the respondents, the appellant has filed the Writ Petition for refixing the pension and grant attendant and monetary benefits by treating his service as full time employee with effect from 01.09.1991.

4.It is pertinent to note that the initial appointment of the appellant itself is contrary to the rules and is not entitled for any monetary benefits from 01.09.1991.

5.Mr.P.Thilak Kumar, learned Government Pleader, appearing for the respondents submitted that the ratio laid down by the Honourable Supreme Court in the Judgment, **dated 07.03.2017 made in Civil Appeal No.3770 of 2017 [Secretary to Government, Commercial Taxes and Registration Department Vs. Singamuthu]**, squarely applies to the facts and circumstances of the present case. The relevant portion of the Judgment of the Honourable Supreme Court reads as follows:-

"17. The learned Single Judge erred in extending the benefit of G.O.Ms.No.22 dated 28.02.2006 to the respondent that too retrospectively from the date of completion of ten years of service of the respondent.

The respondent was appointed on 01.04.1989 and



completed ten years of service on 31.03.1999. As rightly contended by the learned senior counsel for the appellants, if the respondent is to be given monetary benefits from the date of completion of ten years of service, that is from 01.04.1999 till the date of his regularization that is 18.06.2012, the financial commitment to the State would be around Rs.10,85,113/- (approximately) towards back wages apart from pension which will have a huge impact on the State exchequer. That apart, the learned senior counsel for the appellant submitted that in respect of Registration Department, about 172 persons were regularized under various G.Os. and if the impugned order is sustained, the Government will have to pay the back wages to all those persons from the date of completion of ten years in service and this will have a huge impact on the State exchequer. Since the impugned order directing regularization of the respondent from the date of completion of their ten years would adversely affect the State exchequer in a huge manner, the impugned order cannot be sustained on this score also.

18. It is pertinent to note that even the regularisation of services of part-time employees vide G.O.(Rt.) No.505 Finance (AA-2) Department dated 14.10.2009 and G.O.(2D) No.32 Finance (T.A.2) Department dated 26.03.2010 was effected by extending the benefit of G.O. dated 28.02.2006 only from the date of Government Orders and not from the date of completion of their ten years of service. The Division Bench also failed to take note that G.O.Ms.No. 22 P &AR Dept. dated 28.02.2006 is applicable only to full-time daily wage employees and who had completed ten years of continuous service as on 01.01.2006 and not to part-time employees. As per G.O.(Rt.) No.84 dated 18.06.2012, the respondent is entitled to the monetary benefits only from the date of issuance of Government Order regularizing his service that is 18.06.2012. The impugned order of the Division Bench affirming the order of the Single Judge granting benefits to the respondent from the date of completion of ten years of service is erroneous and the same is liable to be set aside."

6.Mr.B.Sekar, learned counsel appearing for the appellant also fairly submitted that in view of the ratio laid down by the Honourable Supreme Court in the Judgment cited supra, the Writ Appeal is liable to be dismissed.



7. In view of the submissions made by the learned counsel appearing on either side, following the ratio laid down by the Honourable Supreme Court cited supra, we do not find any ground to interfere with the order passed by the learned Single Judge. Accordingly, the Writ Appeal is dismissed. No costs.

WEB COPY

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

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.

To

1. The Principal Secretary to Government of Tamil Nadu,
Department of School Education,
Secretariat,
Chennai.
2. The Director of School Education,
Chennai.
3. The Chief Educational Officer,
Pudukkottai.
4. The District Educational Officer,
Pudukkottai District.

+1 CC to M/s.SPL. GP (SR-30150[F] dated 24/09/2021)

**W.A(MD)No.1691 of 2021
23.09.2021**

PS (CO)

SB(05.10.2021) 4P 6C