



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.17627 of 2020

WEB COPY

S.Bagavathy

... Petitioner

Vs.

- 1.The Principal Secretary to Government,
School Education Department,
Fort St. George, Chennai-9.
- 2.The Director of School Education,
D.P.I.Compound,
College Road, Chennai-600 006.
- 3.The District Educational Officer,
Mandapam,
Ramanathapuram District,
Ramanathapuram.
- 4.The Block Educational Officer,
Mandapam,
Ramanathapuram District. ... Respondents

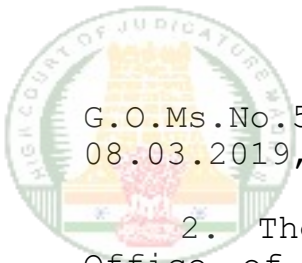
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings in O.Mu.No.3069/A1/2020, dated 28.10.2020 issued by the third respondent and quash the same as illegal and consequently direct the respondents herein to extend the monetary benefits to the writ petitioner on par with similarly placed persons as per G.O.Ms.No.50, School Education (Pa.ka.4(1))Department, dated 08.03.2019, within the time limit fixed by this Court.

For Petitioner : Mr.VR.Shanmuganathan
for Mr.AL.Kannan

For Respondents : Mr.P.Subbaraj
Government Advocate

ORDER

This writ petition is filed to quash the impugned order of the third respondent, dated 28.10.2020 in O.Mu.No.3069/A1/2020 and consequently, direct the respondents to extend the monetary benefits to the writ petitioner on par with similarly placed persons as per

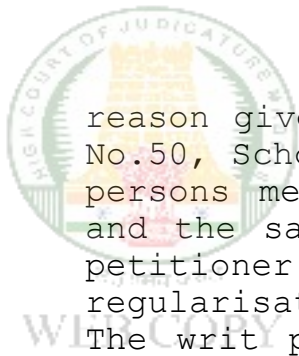


G.O.Ms.No.50, School Education (Pa.ka.4(1) Department, dated 08.03.2019, within the time stipulated by this Court.

2. The petitioner was working as part-time sweeper in the Office of the Assistant Elementary Educational Officer, Mandapam Camp. Based on the registration of her name with the Employment Exchange, the petitioner was selected and appointed as Scavenger on consolidated pay on 03.09.1989. At the time of her appointment, the consolidated pay was fixed as Rs.35/- per month and later, she received Rs.750/- per month as consolidated pay. Even on completion of 10 years of service as Scavenger, the petitioner was not regularized as per the benefits given in G.O(Ms)No.22, Personnel and Administrative Reforms Department, dated 28.02.2006. She has filed a writ petition in W.P(MD)No.7886 of 2013 for a direction to the respondents to appoint the petitioner in the regular time scale of pay either as sweeper or scavenger as per the orders issued by the State Government and regularise the petitioner from the date of her initial appointment. This Court, by order, dated 26.06.2013, allowed the writ petition, directing the respondents 1 to 3 to regularise the services of the petitioner in time scale of pay from the date of completion of ten years of service, after verifying the service particulars of the petitioner, within a period of four weeks from the date of receipt of a copy of that order.

3. In spite of the order of this Court, dated 26.06.2013, the petitioner's service was not regularised. Hence, she made various representations to the respondents. The fourth respondent sent a proposal, dated 27.04.2019, to the third respondent. The petitioner has filed a writ petition in W.P(MD)No.8631 of 2020 for a direction to the third respondent to disburse all the monetary benefits as per the proceedings, dated 27.04.2019. This Court, by order, dated 04.08.2020, directed the third respondent to consider the proposal forwarded by the fourth respondent, dated 27.04.2019 along with the request of the petitioner, dated 20.01.2020, and pass orders with regard to the grievance of the petitioner to extend the benefit as conferred under G.O(Ms)No.50, School Education Department, dated 08.03.2019, on merits and in accordance with law. The said order was communicated to the third respondent. On receipt of the said notice, in order to avoid contempt proceedings, the third respondent rejected the petitioner's request by proceedings, dated 28.10.2020, stating that G.O(Ms)No.50, School Education Department, dated 08.03.2019, was issued only to implement the order passed in W.P(MD)No.17663 of 2014, dated 25.01.2018 and the petitioner is not a party to the said writ petition and therefore, the said benefits cannot be extended to the petitioner. Challenging the said order, the petitioner has come out with the present writ petition.

4. The learned counsel appearing for the petitioner contended that the reason given by the third respondent in the impugned order



reason given in the impugned order that benefit given under G.O(Ms) No.50, School Education Department, dated 08.03.2019, is only to the persons mentioned in the writ petition in W.P(MD)No.17663 of 2014 and the same will not apply to the petitioner, is erroneous. The petitioner filed writ petition in W.P(MD)No.7886 of 2013 for regularisation of her service and said writ petition was allowed. The writ petition filed by the Association was disposed of. The Scavengers Welfare Association filed W.P(MD)No.17663 of 2014 on behalf of its members for regularisation and monetary benefits and they were regularised and monetary benefits were also given to them. The case of the petitioner is that, her service was not regularised. The petitioner is a member of Association and she is also entitled to the benefit of the order of this Court, dated 25.01.2018, and prayed for allowing the writ petition.

5. The third respondent filed counter affidavit. Mr.P.Subbaraj, learned Government Advocate appearing for the respondents reiterated the averments made in the counter affidavit and submitted that the petitioner is not entitled to regularisation as per G.O(Ms)No.50, School Education Department, dated 08.03.2019, which is applicable only to the persons mentioned therein. The petitioner filed writ petition in W.P(MD)No.7886 of 2013 for a direction to the respondents 1 to 3 to appoint her in the regular time scale of pay either as sweeper or scavenger as per G.O(Ms) No.22, Personnel and Administrative Reforms Department, dated 28.02.2006, and regularise her service from the date of her initial appointment. This Court, by order, dated 26.06.2013, allowed the writ petition, directing the respondents 1 to 3 to regularise the services of the petitioner in time scale of pay from the date of completion of ten years of service, after verifying the service particulars. The petitioner has also filed the writ petition in W.P (MD)No.8631 of 2020 for a direction to the third respondent to disburse all the monetary benefits with arrears as per the proceedings of the fourth respondent, dated 27.04.2019. The fourth respondent has not passed any orders for regularising the service of the petitioner. When the writ petition filed by the petitioner came up for hearing, this Court, directed the third respondent to consider the proposal forwarded by the fourth respondent, dated 27.04.2019, along with the representation of the petitioner, dated 20.01.2020, with regard to grievance of the petitioner to extend the benefits as conferred under G.O(Ms)No.50, School Education, Department, dated 08.03.2019, on merits. The request of the petitioner was considered and by the impugned order, dated 28.10.2020, the third respondent rejected the request of the petitioner as the benefits given in G.O(Ms)No.50, School Education Department, dated 08.03.2019, is not applicable to the petitioner. There were several appointments and monetary benefits were given to the appointees as per G.O(Ms)No.47, School Education Department, dated 02.03.2012 and G.O.Ms.No.50, School Education Department, dated 08.03.2019. The petitioner is no way connected with G.O(Ms) No.50, School Education Department, dated 08.03.2019. Hence, the impugned order rejecting the



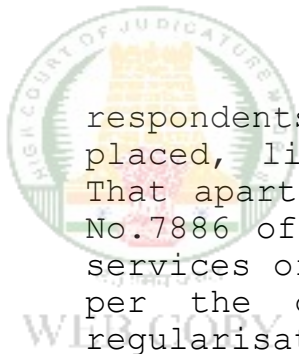
proposal of the fourth respondent and the representation of the petitioner, is valid and legal and prayed for dismissal of the writ petition.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials available on record.

7. From the materials available on record, it is seen that the petitioner was appointed on 03.09.1989 as Scavenger in the office of Assistant Elementary Educational Officer, Mandapam Camp. It is not disputed by the respondents that the petitioner is working from that date continuously without any break. According to the petitioner, she is entitled to regularisation on completion of 10 years of service and she is entitled to be brought under time scale of pay. The respondents did not regularize the services of the petitioner on completion of 10 years of service and did not give monetary benefits. The petitioner filed writ petition in W.P(MD)No.7886 of 2013 for the said benefits. This Court, considering all the earlier judgments and orders of this Court, by order, dated 26.06.2013, allowed the writ petition. This Court in the said writ petition issued the following directions:-

" a direction is issued to the respondents to regularise the services of the petitioner in time scale of pay from the date of completion of ten years of service, after verifying the service particulars, within a period of four weeks from the date of receipt of copy of the order."

8. As per the aforesaid direction, the petitioner is entitled for regularisation on completion of 10 years of service and entitled to all the benefits. The said order has become final, as respondents did not challenge the same by filing an appeal. In spite of the order of this Court, dated 26.06.2013, the service of petitioner was not regularised. The respondents did not regularise the service of the petitioner as directed by this Court. While so, based on the order of this Court, dated 25.01.2018 made in W.P(MD) No.17663 of 2014, the first respondent issued G.O.Ms.No.50, School Education Department, dated 08.03.2019 and granted monetary benefits to the members of the Scavenger Welfare Association, who are all similarly placed persons, like the petitioner. The petitioner was not given such benefits. It is pertinent to note that the fourth respondent, by proposal, dated 27.04.2019, recommended to grant monetary benefits to the petitioner as per G.O(Ms)No.385, Finance Department, dated 01.10.2010 and G.O(Ms)No.50, School Education Department, dated 08.03.2019 enclosing the service records of the petitioner. The contention of the learned Government Advocate appearing for the respondents that fourth respondent has sent proposal only on 27.04.2019 and therefore, the petitioner is not entitled to regularisation on such proposal, is without merits. The



respondents are not denying that the petitioner is also similarly placed, like persons mentioned in G.O(Ms)No.50, dated 08.03.2019. That apart, this Court, as early as on 26.06.2013, made in W.P(MD) No.7886 of 2013, directed the respondents 1 to 3 to regularise the services of the petitioner on completion of 10 years of service. As per the order of this Court, the petitioner is entitled to regularisation of her service in time scale of pay on completion of 10 years of service. Once, the petitioner's service is regularised, she is entitled to be brought on time scale of pay and entitled to monetary benefits. The third respondent without considering the order of this Court, dated 26.06.2013, made in W.P(MD)No.7886 of 2013, by misinterpretation, rejected the request of the petitioner by the impugned order. The reasons, given by the third respondent in the impugned order, are erroneous. Hence, the impugned order is liable to be set aside and accordingly, it is set aside. The respondents are directed to regularise the services of the petitioner as per the order of this Court, dated 26.06.2013, made in W.P(MD)No.7886 of 2013 and extend the monetary benefits to him on par with similarly placed persons, as per G.O.(Ms)No.50, School Education Department, dated, 08.03.2019, within a period of four weeks from the date of receipt of a copy of this order.

9. With the above observations, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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,
School Education Department,
Fort St. George, Chennai-9.



2.The Director of School Education,
D.P.I.Compound,
College Road, Chennai-600 006.

3.The District Educational Officer,
Mandapam,
Ramanathapuram District,
Ramanathapuram.

4.The Block Educational Officer,
Mandapam,
Ramanathapuram District.

+1cc to M/s.AL. KANNAN Advocate Sr.No.19998

+1cc to M/S.SPL GP Sr.NO.19899

W.P. (MD)No.17627 of 2020

21.06.2021

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