



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD) No.5960 of 2018

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P.Saroja

...Petitioner

Vs.

1.The State of Tamilnadu,
Rep. by its Secretary to Government,
School Education Department,
Secretariat, Chennai-9.

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

3.The District Educational Officer,
Musiri,
Musiri Taluk,
Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st Respondent in his Letter No.6151/Pa.Ka.4(1)/2017 dated 03.01.2018 and quash the same as illegal, arbitrary and consequently directing the Respondents to notionally regularizing the service of the petitioners husband from 14.10.1966 to 30.06.2007 the date of his retirement as regular service and pay all the retirement benefits with arrears of Family Pension from 01.07.2007 and continuously with 18% interest per annum including compassionate appointment.

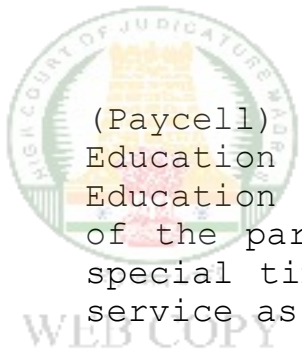
For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.A.Thiyagarajan
Government Advocate

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. The petitioner is a widow of a part-time Sweeper, who was engaged in the Government Higher Secondary School, Pullivalam, Musiri Taluk, Trichy District, from the year 14.10.1996 to 30.06.2007. The Government Orders in G.O.Ms.No.385, Finance



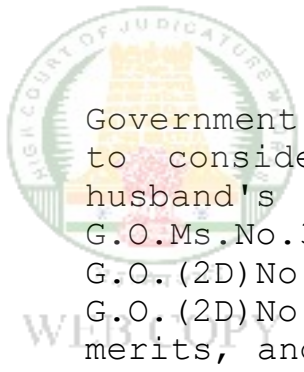
(Paycell) Department, dated 01.10.2010, G.O.(2D)No.129, School Education Department, dated 31.05.2016 and G.O.(2D)No.239, School Education Department, dated 07.09.2016 provides for regularisation of the part-time workers or workers on consolidated payment in a special timescale of pay, provided they had put in three years of service as a part-time or on consolidated pay basis.

3. The petitioner's husband died on 30.06.2008 and when the petitioner herein has sought for regularisation of her husband's service from 14.10.1966 to 30.06.2007, her request was not considered, which constrained her to file a writ petition in W.P. (MD).No.9044 of 2015 seeking for notional promotion. The writ petition came to be dismissed and the review application filed against the same was also dismissed. Subsequently when the petitioner had challenged these orders in W.A.(MD).No.1095 and 1442 of 2016, the Hon'ble Division Bench of this Court had allowed the appeal through its order dated 01.02.2017 in the following manner:

"6. In view of the above, both the Writ Appeals are disposed of, directing the appellant to send a fresh representation along with a copy of this Judgment to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider the said representation seeking Special Time Scale of pay of Rs.1300-3000 + Grade Pay of Rs.300/- and pass appropriate orders, on merits and in accordance with law and as per the Government Order in G.O.Ms.No.385, Finance (Paycell) Department, dated 01.10.2010 and in the light of G.O.(2D)No.129, School Education, (Ni.Va.4(2)], Department, dated 31.05.2016 and as per G.O.(2D)No.239, School Education, (Ni.Va.4 (2)], Department, dated 07.09.2016, within a period of six weeks thereafter. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the appellant and it is for the first respondent to consider the Claim of the appellant strictly on merits and in accordance with law and pass appropriate orders. No Costs."

4. Accordingly, the petitioner had given a fresh representation in terms of the order passed in the writ appeal and the first respondent herein, through the order dated 03.01.2018, had rejected the petitioner's claim. The writ petition is directed against the said rejection.

5. When the Hon'ble Division Bench had passed final orders in the writ appeal directing the first respondent to consider the petitioner's representation in accordance with the terms of the



Government Orders mentioned therein, the respondents were required to consider the petitioner's claim to notionally promote her husband's service in the light of the Government Orders in G.O.Ms.No.385, Finance (Paycell) Department, dated 01.10.2010, G.O.(2D)No.129, School Education Department, dated 31.05.2016 and G.O.(2D)No.239, School Education Department, dated 07.09.2016, on merits, and in accordance with law. However, in the impugned order dated 03.01.2018, the first respondent herein had chosen to reject the petitioner's claim by stating that G.O.Ms.No.385, Finance (Paycell) Department, dated 01.10.2010 would be applicable only to part-time/consolidated pay paid employees who had put in such service for a period of three years and further had stated that the Government Orders, which had been passed for the purpose of complying with the Court orders passed in the case of the employees and the Government Orders, which have been passed for avoiding action in contempt petitions.

6. There is absolutely no justification or legality in the aforesaid reasoning assigned by the first respondent in the impugned order. Firstly, the respondents herein in their counter affidavit, in paragraph No.4, have admitted that the petitioner was engaged as a Part-time Sweeper from 14.10.1966 to 13.06.2007. As such he had put in more than three years of part-time service as required in G.O.Ms.No.385, Finance (Paycell) Department, dated 01.10.2010. Secondly, there is no basis on the part of the first respondent to claim that the Government Orders were passed for the purpose of complying with the Court orders for individual cases or to avoid contempt action. It is needless to point out that the Government Orders would have universal application to all the employees of the Government Department to which it is made applicable. The respondents have not denied in their counter affidavit that G.O.Ms.No.385, Finance (Paycell) Department, dated 01.10.2010 G.O.(2D)No.129, School Education Department, dated 31.05.2016 and G.O.(2D)No.239, School Education Department, dated 07.09.2016, had facilitated for regularisation of the part-time/consolidated pay employees, who had put in three years of service. While that being so, It has to held that the petitioner's husband, would be entitled to be regularised for the period between 14.10.1966 to 30.06.2007 and consequently, the reasoning assigned in the impugned rejection order cannot be sustained.

7. For all the foregoing reasons, the impugned order dated 03.01.2018 stands quashed. The first respondent herein is called upon to notionally regularise the services of the petitioner's husband namely, late A.Palanisamy, from 14.10.1966 to 30.06.2007 and disburse all the retirement benefits as on 30.06.2007 and also pay the arrears of family pension from 01.07.2007 till date and continue to pay the family pension thereafter. Such arrears shall be paid together with interest at the rate of 3% per annum. The



first respondent shall endeavour to disburse the aforesaid monetary benefits, together with interest, atleast within a period of twelve weeks from the date of receipt of a copy of this order.

8. This writ petition stands allowed accordingly. No Costs.

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

PJL

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 Secretary to Government,,
The State of Tamilnadu,
School Education Department,
Secretariat, Chennai-9.

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

3.The District Educational Officer,
Musiri,
Musiri Taluk,
Trichy District.

+1 CC to SGP (SR-5112[F] dated 15/02/2021)

W.P. (MD) No.5960 of 2018

12.02.2021

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