



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

CORAM

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 15953, 15955, 15958, 15960, 15962 to 15964, 15967, 15969, 16393, 16395, 16397, 16398, 16400, 16489, 16492, 16493, 16496, 16826, 16828, 16829, 17147, 17148, 17150, 17152, 17156, 17194, 17221, 17346, 17973, 18099, 18101, 18103, 18105 and 18108 of 2019

K.VELMURUGAN	... PETITIONER IN W.P. NO. 15953 OF 2019
A.RANI	... PETITIONER IN W.P. NO. 15955 OF 2019
V. ABIMANNAN	... PETITIONER IN W.P. NO. 15958 OF 2019
P.PERIYANNAN	... PETITIONER IN W.P. NO. 15960 OF 2019
S.VASUKI	... PETITIONER IN W.P. NO. 15962 OF 2019
K. SARASU	... PETITIONER IN W.P. NO. 15963 OF 2019
N.GANESAN	... PETITIONER IN W.P. NO. 15964 OF 2019
K.VIJAYA LAKSHMI	... PETITIONER IN W.P. NO. 15967 OF 2019
M.AMUDHA	... PETITIONER IN W.P. NO. 15969 OF 2019
R.KANNAPPAN	... PETITIONER IN W.P. NO. 16393 OF 2019
V.MANIBALAN	... PETITIONER IN W.P. NO. 16395 OF 2019
S.KANNAN	... PETITIONER IN W.P. NO. 16397 OF 2019
K.MURALI	... PETITIONER IN W.P. NO. 16398 OF 2019
M.SELVARASU	... PETITIONER IN W.P. NO. 16400 OF 2019
M.KANNADASAN	... PETITIONER IN W.P. NO. 16489 OF 2019
M.DEIVANAI	... PETITIONER IN W.P. NO. 16492 OF 2019
BHAGYALAKSHMI	... PETITIONER IN W.P. NO. 16493 OF 2019
T.SHANTHI	... PETITIONER IN W.P. NO. 16496 OF 2019
1.K.GNANAVEL	
2.P.ANJAPULI	
3.R.ARUMUGAM	
4.K.SEKAR	
5.P.SRINIVASAN	
6.M.JAYALAKSHMI	
7.S.NAGAMMAL	
8.A.SULOCHANA	
9.G.PREMA	
10.S.GUNASEKARAN	... PETITIONERS IN W.P.NOs.16826 OF 2019
G.GANDHIMATHI	... PETITIONER IN W.P. NO. 16828 OF 2019
G.KOLANCHI	... PETITIONER IN W.P. NO. 16829 OF 2019
V.NATRAYAN	... PETITIONER IN W.P. NO. 17147 OF 2019
S.M.SUBRAMANIAN	... PETITIONER IN W.P. NO. 17148 OF 2019
K.MOHAN	... PETITIONER IN W.P. NO. 17150 OF 2019
M.SELVAN	... PETITIONER IN W.P. NO. 17152 OF 2019
M. KALYANI	... PETITIONER IN W.P. NO. 17156 OF 2019
A.RAJENDRAN	... PETITIONER IN W.P. NO. 17194 OF 2019
B.V.KOTHANDARAMALINGAM	
https://hcservices.ecourts.gov.in/hcservices/	.. PETITIONER in WP No.17221 of 2019



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1 S.PATTAMUTHU
2 R.ESAKKI
3 L.RAJAPPA
4 N.PALANISELVAN
5 SUBBULAKSHMI
6 A.PERUMALSAMY
7 V.SHANMUGATHAI
8 M.MARIAPPAN
9 S.PARAMASIVAN
10 M.LAKSHMI ... PETITIONERS IN WP NO.17346 OF 2019

K.SIVA MOORTHY ... PETITIONER IN WP NO.17973 OF 2019
S.BALASUNDARAM ... PETITIONER IN WP NO.18099 OF 2019
K. GNANASEKARAN ... PETITIONER IN WP NO.18101 OF 2019
P.T.PALANISAMY ... PETITIONER IN WP NO.18103 OF 2019
G.LALITHA ... PETITIONER IN WP NO.18105 OF 2019
M.VELMURUGAN .. PETITIONER IN WP.NO.18108 OF 2019

-vs-

1. THE PRINCIPAL SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
FORT ST. GEORGE,
CHENNAI - 600 009.
2. THE DIRECTOR OF PUBLIC LIBRARIES,
ANNA SALAI,
CHENNAI. .. RESPONDENTS 1 & 2 IN ALL WPS
3. THE DISTRICT LIBRARY OFFICER,
DISTRICT LIBRARY OFFICE,
CHERA RAJAN SAALAI,
ASTHAMPATTY,
SALEM - 7. ... 3RD RESPONDENT IN WPs.15953,15955,15958,
15960,15962,15963,15964,15967,15969 OF 2019

THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE,CUDDALORE
CUDDALORE DISTRICT.
... 3RD RESPONDENT IN WPs.16393,16395,16397,
16398,16400,16489,16492,16493,16496 OF 2019

THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE
COLLECTORATE COMPLX,VILLUPURAM
VILLUPURAM DISTRICT.
... 3RD RESPONDENT IN WPs.16826,16828,
16829 OF 2019

THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE
KARUR, KARUR DISTRICT.
.. 3RD RESPONDENT IN



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THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE
NAMAKKAL, NAMAKKAL DISTRICT.

... 3RD RESPONDENT IN
WPS.17150,18099,18101,18103 OF 2019

THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE
THIRUVARUR, THIRUVARUR DISTRICT

... 3RD RESPONDENT IN WPS.17194 OF 2019

THE DIRECTOR OF PUBLIC LIBRARIES
DISTRICT LIBRARY OFFICE
THIRUVALLUR
THIRUVALLUR DISTRICT

... 3RD RESPONDENT IN WPS.17221 OF 2019

THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE,
TIRUNELVELI TIRUNELVELI DISTRICT

... 3RD RESPONDENT IN WPS.17346 OF 2019

THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE
ARIYALUR ARIYALUR DISTRICT.

... 3RD RESPONDENT IN WPS.17973 OF 2019

THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE TIRUCHIRAPALLI
TIRUCHIRAPALLI DISTRICT.

... 3RD RESPONDENT IN WPS.18105,18108 OF 2019

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First Respondent to fix the pay of the Petitioner in the time scale of pay of Rs. 15,700 - Rs. 50,000 (pre revised scale of pay of Rs. 4,800 - Rs. 10,000 + G.P. Rs. 1,300/-) on par with regular sweepers working under his control, by applying the principle of equal pay for equal work and in the light of G.O. Ms. No. 50, School Education (Pa.Ka. 4(f)) Department dated 08.03.2019 with all consequential service and monetary benefits.

For Petitioner :Mr. R.Prem Narayan
(in all W.P.s)

For Respondents:Mr. Silambannan,
(in all W.P.s) Additional Advocate General assisted by
Mrs. C.Sangamithirai,
Special Government Pleader



COMMON ORDER

Heard Mr. R.Prem Narayan, Learned Counsel for the Petitioners and Mr. Silambannan, Learned Additional Advocate General assisted by Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners in this batch of Writ Petitions are sweepers working in Government Branch Libraries in Karur, Namakkal, Tiruvarur, Tiruvallur, Tirunelveli, Tiruchirapalli, Cuddalore, Kallakurichi and Salem Districts in Tamil Nadu. They had been brought on special time scale of pay by Governmental Orders extending such benefits conferred in G.O. Ms. No. 385, Finance (Pay Cell) Department dated 01.10.2010 pursuant to the orders passed by this Court. Though it is accepted by them that they had been initially appointed on part-time basis prior to the year 2010, they ventilate the grievance that they have been actually carrying out the same duties performed by sweepers on regular employment and by applying the principle of 'equal pay for equal work' as laid down by the Hon'ble Supreme Court of India in State of Punjab -vs- Jagjit Singh [(2017) 1 SCC 148], they are entitled to parity in pay with them.

3. The Respondents resist the claim of the Petitioners referring to the decision of the Division Bench of this Court in Secretary to Government, School Education Department, Chennai -vs- R.Mallika (Order dated 14.12.2021 in W.A. No. 1313 of 2014) where it has been held in respect of a similarly placed sweeper in a branch library in Erode District, following the ruling of the Hon'ble Supreme Court of India in Secretary to Government, School Education Department, Chennai -vs- R.Govindaswamy [(2014) 4 SCC 769], that persons performing part-time work cannot be entitled to the same pay of regular employees. On account of the divergence of the claims as to whether the Petitioners are part-time employees or are in full-time employment, this Court by order dated 16.03.2022 required the Commissioner of Labour, Government of Tamil Nadu through his jurisdictional subordinate officials to visit the concerned branch libraries where the respective Petitioners are working and conduct enquiry regarding their conditions of employment with particular reference to the actual hours they are required to work and also ascertain as to how sweeping activities and cleanliness is maintained throughout the day, after issuing notice to the respective Petitioners and the officers of the concerned branch libraries and file report in that regard. In furtherance to the said order, the Commissioner of Labour in his report dated 26.04.2022 has stated that the actual hours of work for the Petitioners ranges from 1 to 3 hours per day and as such, it is part-time employment in all these cases. It is also brought to notice that after the filing of the Writ Petitions, the



Seventh Petitioner in W.P. No. 16826 of 2019, viz., S.Nagammal, and the Petitioner in W.P. No. 17973 of 2019, viz., K.Siva Moorthy, have retired from service and are not working as on date in those branch libraries.

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4. Learned Counsel for the Petitioners impeaches the conclusions arrived in the report of the Commissioner of Labour that the nature of job performed by each of the Petitioners is part-time and relies on the decision of this Court in D.Arasu -vs- Government of Tamil Nadu (Order dated 19.09.2014 in W.P. No. 7884 of 2013) and another decision of this Court in School Education Department Scavengers Welfare Association -vs- Principal Secretary, School Education Department (Order dated 25.01.2018 in W.P. (MD) No. 17663 of 2014), which has been confirmed in appeal by the Division Bench of this Court in Principal Secretary, School Education Department -vs- School Education Department Scavengers Welfare Association (Order dated 29.01.2019 in W.A. (MD) No. 1584 of 2018), in which regular time scale of pay has been directed to be fixed for sweepers and scavengers in colleges and schools run by the Government across the State.

5. It is explained by Learned Additional Advocate General assisted by Learned Special Government Pleader appearing for the Respondents that the orders passed by the Court in the aforesaid cases extending regular time scale of pay were in respect of persons who had been appointed as full-time sweepers against sanctioned posts, unlike the Petitioners in these Writ Petitions whose initial appointment as sweepers on part-time for administrative exigencies is not disputed by them.

6. Having regard to the rival submissions made, the contentious dispute narrows down to the question as to whether each of the Petitioners are in full-time employment in order to be extended the regular time scale of pay of sweepers as followed in other establishments of the State Government which is claimed by them. As already stated, the Commissioner of Labour, Government of Tamil Nadu, after visiting the concerned branch libraries through his subordinate officials, where each of the Petitioners are working, has stated that their actual working hours range from 1 to 3 hours and the nature of job performed by them is part-time work. Though the Petitioners seek to disprove the same, it is not possible for this Court in the exercise of the discretionary powers of judicial review of the decision-making process under Article 226 of the Constitution to effectually and completely adjudicate such factual dispute without recording the evidence and examining the witnesses in that regard. Viewed from that perspective, the determination of the matter following summary procedure one way or other would not be satisfactory and may instead cause either miscarriage or failure of justice, which would not be in the interests of the parties. In such circumstances, the petitioners have to be relegated to invoke the prescribed



mechanism under the industrial law to raise all the contentions for the relief sought. This course of action is fortified by the decision of the Hon'ble Supreme Court of India in State of Uttar Pradesh -vs- Uttar Pradesh Rajya Kaniy Vikas Nigam Sangharsh Samiti [(2008) 12 SCC 675]. It is made clear that no view has been expressed by the Court on the correctness or otherwise of the rival contentions of the parties in these Writ Petitions.

In the result, these Writ Petitions are dismissed with the aforesaid observations. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vjt
To

1. THE PRINCIPAL SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
FORT ST. GEORGE,
CHENNAI - 600 009.
2. THE DIRECTOR OF PUBLIC LIBRARIES,
ANNA SALAI,
CHENNAI.
3. THE DISTRICT LIBRARY OFFICER,
DISTRICT LIBRARY OFFICE,
CHERA RAJAN SAALAI,
ASTHAMPATTY,
SALEM - 7.
4. THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE, CUDDALORE
CUDDALORE DISTRICT.
5. THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE
COLLECTORATE COMPLX, VILLUPURAM
VILLUPURAM DISTRICT.
6. THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE
KARUR, KARUR DISTRICT.
7. THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE
NAMAKKAL, NAMAKKAL DISTRICT.



8. THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE
THIRUVARUR, THIRUVARUR DISTRICT

9. THE DIRECTOR OF PUBLIC LIBRARIES
DISTRICT LIBRARY OFFICE
THIRUVALLUR
THIRUVALLUR DISTRICT

10. THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE,
TIRUNELVELI TIRUNELVELI DISTRICT

11. THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE
ARIYALUR ARIYALUR DISTRICT.

12. THE DISTRICT LIBRARY OFFICER
DISTRICT LIBRARY OFFICE TIRUCHIRAPALLI
TIRUCHIRAPALLI DISTRICT.

+2 ccs to Mr.R.Prem Narayan, Advocate Sr.NO.29277
+1 cc to Government Pleader Sr.NO. 30579 to 30581,
30583 to 30591, 30602 to 30615,
30617, to 30619, 30621, to 30625

W.P. No. 15953 of 2019 etc., batch

Ak/ssd(CO)
A.SK(19/05/2022)