



W.P(MD)No.11072 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11072 of 2022

and

W.M.P(MD)No.7943 of 2022

Angalaeswari

... Petitioner

Vs

1.The Secretary to Government of Tamil Nadu,
Department of School Education,
Fort St.George,
Chennai – 600 009.

2.The Director of Public Libraries,
Anna Salai,
Chennai – 600 002.

3.The District Library Officer,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the first respondent in Na.Ka.No. 7664/A2/2021 dated 24.12.2021 and quash the same as illegal and consequently, direct the respondents to appoint the petitioner as Sweeper in



W.P(MD)No.11072 of 2022

accordance with G.O.No. 385 dated 01.10.2010 and to grant her special time scale of pay with retrospective effect and all other applicable monetary benefits within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Jerin Mathew

For Respondents : Mr.J.Ashok
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.This is the third round of litigation. The writ petitioner was engaged as Sweeper on part-time basis from June 2011 onwards in Branch Library, Sundarapandiyapuram, Tirunelveli District. She claimed the benefit of G.O(Ms)No.385, Finance (Pay Cell) Department dated 01.10.2010 which directed that Sweepers engaged on daily wages basis or consolidated pay basis for three years in a Government Offices or in local bodies should be placed in Special Time Scale of Pay (Rs.1300– 3000 + 300/-). The writ petitioner filed W.P(MD)No.206 of 2018 for directing the authorities to consider her representation dated 09.12.2017 seeking permanency and conferring time scale of pay. Vide order dated 02.02.2018, this Court directed the competent authority to pass order on the said request. Pursuant to the said direction, an order dated 31.05.2018 came to be passed by the Director of Public Libraries,



W.P(MD)No.11072 of 2022

Chennai rejecting her request. Challenging the same, the petitioner filed W.P(MD)No.4190 of 2019. Vide order dated 15.09.2021, the said order was set aside and the following directions were issued.

“ 7.In the light of the above said discussion, this Court is passing the following orders:

i) The writ petitioner shall submit the documents that have been submitted before this court to the second respondent within a period of two weeks from the date of receipt of a copy of this order.

ii) On such furnishing of the documents within a period of two weeks from the date of receipt of a copy of this order, the respondent shall verify the said documents and compare the same with the original records and if it is found genuine, take appropriate decision in accordance with law.

iii) the aforesaid exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

iv) the second respondent shall provide an opportunity to the petitioner for the production of the original records, if it is required.”

Pursuant to the said order passed by this Court, the impugned order came to be passed once again rejecting the petitioner's request. Questioning the same, the present writ petition has been filed.



W.P(MD)No.11072 of 2022

WEB COPY

3.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to quash the same and allow the writ petition as prayed for.

4.The respondents filed counter affidavit and also typed set of papers. The learned Additional Government Pleader took me through the same. He submitted that the Library in which the petitioner claims to have served measures hardly 400 Sq.ft. He would further contend that the petitioner had access to the records and had filled up the same. This is evident from the fact that in the month of February 2013, the petitioner claims to have reported for duty even on February 29th, 30th and 31st. He would probabilise their case that the records have been manipulated. It is also stated that during the month of August 2013, the petitioner was absent and therefore, the requirement of three years stipulated in the aforesaid Government Order is not fulfilled. He also pointed out that this writ petitioner has not been in service since 2017 and that the question of regularization will not arise. He pressed for dismissal of writ petition.



W.P(MD)No.11072 of 2022

5.I carefully considered the rival contentions and went through the materials on record.

6.The first question that calls for consideration is whether G.O(Ms)No. 385, Finance (Pay Cell) Department dated 01.10.2010 stipulates three years of continuous service on daily wages basis or on consolidated pay. As rightly pointed out by the learned counsel appearing for the petitioner, it only states that the employee must have served for a minimum period of three years. There is no condition that the service must be continuous. Therefore, the fact that the petitioner was given break in service on the 89th day and that during the month of August 2013, she was absent cannot lead to her disentitlement.

7.From the records placed before me, I am satisfied that the petitioner had completed three years of service by the end of June 2014. From the month of July 2014, she ought to have been placed any special time scale of pay. The order impugned in the writ petition does not deal with this aspect at all. To this extent, the impugned order is interfered with. However, I cannot grant the petitioner's request for appointing her as Sweeper in accordance with the aforesaid Government Order. The said Government Order talks only about the conferment of Special time scale of pay and it does not talk about regularisation or any other service condition. Therefore, this part of the writ prayer cannot be



W.P(MD)No.11072 of 2022

granted. The petitioner is said to have worked as part-time Sweeper in Branch Library, Sundarapandiyapuram, till March 2017. The petitioner shall be placed in Special Time Scale of Pay as per G.O(Ms)No.385, Finance (Pay Cell) Department dated 01.10.2010 from July 2014 till March 2017 and differential arrears will have to be paid to the writ petitioner. This shall be done within a period of eight weeks from the date of receipt of a copy of this order. It is open to the respondents to re-engage the writ petitioner in whatever capacity they deem fit. I make it clear that I have not given any direction as such.

8.This writ petition is partly allowed. Consequently, connected miscellaneous petition is closed. No costs.

19.10.2022

Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.11072 of 2022

G.R.SWAMINATHAN, J.

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W.P(MD)No.11072 of 2022

19.10.2022