WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.03.2022
CORAM
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**
**W.P.(MD)No.3816 of 2016**

S.Savariraj ... Petitioner

vs.

1.The Secretary to Government of Tamilnadu,
Animal Husbandry Department,
Secretariat, Chennai -9.

2.The Director,
Animal Husbandry Department,
Dms Campus,
Thenampet, Chennai-6.

3.The Deputy Director,
Animal Husbandry Department,
Sivagangai. ... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records connected with the impugned order passed by the 3rd respondent in his proceedings Na.Ka.No.91/A/2015, dated 27.04.2015 and to quash the same and consequently, to direct the respondents to absorb the petitioner in Regular Time Scale of Pay in the existing or future vacancies under the control of the 2nd respondent as Sweeper or Watchman within a reasonable time.

For Petitioner : Mr.S.Govindan

For Respondents : Mr.P.Thambidurai
Government Advocate (Civil side)

*****

**O R D E R**

This Writ Petition is filed for Writ of Certiorarified Mandamus, to quash the impugned order dated 27.04.2015 and consequently, to direct the respondents to absorb the petitioner in Regular Time Scale of Pay in the existing or future vacancies under the control of the 2nd respondent as Sweeper or Watchman within a reasonable time.

2. The brief facts of the case are that the petitioner has studied 7th standard and recruited through employment exchange and

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

was appointed as part time Sweeper by the orders of the third respondent on 09.02.1988 and posted in the Periyakottai Veterinary Sub Center under the control of the third respondent and the petitioner joined the service on 16.02.1988 and he is in service for the past 25 years. However, his service was continued as part time Sweeper without any break in service. The petitioner is aggrieved, because he was continued in part time service without absorbing in Department in regular vacancies. Since there was a vacancy for the post of Watchman in Maravamangalam, Sub Centre, the petitioner applied for the above post through proper channel on 14.03.2014. The respondent did not consider the same. Hence, the petitioner approached this Court in W.P.(MD)No.1733 of 2015, to consider his representation, dated 08.09.2014, for absorption in regular time scale of pay. This Court was pleased to direct the respondents to consider the representation, dated 08.09.2014, vide order, dated 12.02.2015. The petitioner again submitted a detailed representation on 23.03.2015. The third respondent without considering the genuine claim of the experience, rejected the claim of the petitioner on the ground that the petitioner is a part time Sweeper and are not entitled to regularization.

3. The respondents have filed a counter affidavit denying that the petitioner was working in the said place, since the petitioner has not reported to duty from 05.06.2012 onwards. Therefore, the petitioner cannot claim as a part time Sweeper. On 23.03.2015, the Veterinary Assistant Surgeon sent a letter addressed to the Deputy Director, Cattle Breeding and Fodder Development informing that the petitioner has not reported to duty from 05.06.2012 after the upgradation of the Periyakottai Veterinary Sub Centre to Rural Veterinary Dispensary. However, on 08.09.2014 and 15.12.2014, the petitioner represented requesting to regularize and absorb him and make him as permanent in the post in time scale of pay. While his request was under consideration, the petitioner has filed the Writ Petition in W.P.(MD)No.1733 of 2015, seeking to consider his representation. The petitioner submitted the representation, enclosing the copy of the order. In the light of the judgment passed in ***Govindasamy case***, the respondents rejected the request of the petitioner on the ground of temporary adhoc and daily wage service with a long number of years alone will not entitle the said employee to claim regularization. The petitioner's claim was also rejected on the basis of ***Umadevi case*** reported in ***2016 AIR SC 1806***. Hence, the respondents prayed to dismiss the Writ Petition.

4.Heard Mr.S.Govindan, learned Counsel appearing for the petitioner and Mr.P.Thambidurai, learned Government Advocate appearing for the respondents.

5. Temporary Sweepers and the Watchman are regularized after the employee has put in 10 years of service, through G.O.Ms.No.22, thereafter, the G.O. was modified through G.O.Ms.No.74 and several

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

temporary workers were regularized. Some of employees who are working as part time Sweepers and part time Watchman also came forward with a similar plea to regularize them. However, the Government rejected their plea stating that G.O.Ms.No.22, is not applicable to part time employees. The Government has issued another G.O.Ms.No.385, Finance (Salary Department), dated 01.10.2010 and considered the claim of the part time employees by granting "Special Time Scale of Pay".

6.Therefore, this Court is of the considered opinion that the petitioner is entitled to the benefits as stated in G.O.Ms.No.385, Finance (Salary Department) dated 01.10.2010. Therefore, the respondents are directed to grant the Special Time Scale of pay from the date of receipt of a copy of this order within a period of four weeks from the date of receipt of a copy of this order.

7.The next contention submitted by the petitioner is that he was not allowed to continue in his employment after the dispute arose between the petitioner and the respondent. Therefore, the respondents are directed to allow the petitioner to continue his employment. However, the petitioner is not entitled to any back wages under "no work no pay" principle. The respondents shall grant continuity of service, after reinstating the petitioner.

8.With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (WRITS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

**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 of Tamilnadu,
Animal Husbandry Department,
Secretariat, Chennai -9.

https://hcservices.ecourts.gov.in/hcservices/

WEB COPY

2.The Director,
Animal Husbandry Department,
Dms Campus,
Thenampet, Chennai-6.

3.The Deputy Director,
Animal Husbandry Department, Sivagangai.

+1 CC to M/s.SPL GP ( SR-15343[F] dated 30/03/2022 )

**W.P.(MD)No.3816 of 2016**
29.03.2022

RK(29/04/2022) 4P 5C

https://hcservices.ecourts.gov.in/hcservices/