



WEB COPY



W.P.No.21495 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.21495 of 2012

C.Jega Selvam

... Petitioner

Vs

1. The Secretary to Government,
School Education Department,
Fort St. George,
Chennai - 600 009.

2. The Director of School Education,
College Road,
Chennai - 600 006.

3. The District Educational Officer,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the 2nd and 3rd respondents to regularize the service of the petitioner from the date of his appointment i.e. on 06.03.1990 and thereby grant all service and monetary benefit to him.

For Petitioner : Mr.Edwin Jayakumar

For Respondents : Mr.L.S.M.Hasan Fizal
Additional Government Pleader



W.P.No.21495 of 2012

ORDER

This Writ Petition has been filed for direction directing the third respondent to regularise the service of the petitioner from the date of his appointment.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

3. The petitioner was appointed as a Part Time Sweeper by the third respondent. His appointment was made as per the seniority list sponsored by the District Employment Officer. He was continuously working in the Government Primary School, Kundal. However, his service was not regularised till date. Therefore, he made a representation.

4. A perusal of the counter filed by the respondents revealed that the petitioner was appointed as Part Time Sweeper in the Government Primary School, Kundal and he cannot be considered as a daily rated employee and he was working in the Government School and he was sponsored by the Employment Exchange. The salary of the



W.P.No.21495 of 2012

petitioner was also “Consolidated Pay” and the salary being met from contingencies fund. The Government has passed G.O.Ms.No.22 dated 28.02.2006 for regularisation of the service of the employees in any Government Department on daily wages and who were completed 10 years of service. The first respondent, while implementing the said Government Order by its letter dated 23.06.2009, had clarified G.O.No.22 applicable to the full time daily wages and not applicable for the consolidated pay.

5. The petitioner is also claimed that similarly placed persons approached this Court and this Court directed the respondents to consider their service to be regularized. The Hon'ble Supreme Court of India repeatedly held that the equality clause contained in Articles 14 and 16 of the Constitution of India should be scrupulously followed and Courts should not issue direction for regularisation of services of an employee which would be violative of the constitutional scheme and the back door entries, appointments contrary to the constitutional scheme or appointment of ineligible candidates cannot be regularised and the even temporary adhoc or daily wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim



W.P.No.21495 of 2012

regularisation and that there cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees. There is no fundamental right to those who have been employed on daily wages or temporarily or on contractual basis, to claim that they have a right to be absorbed in service, since they cannot be said to be holders of a post, since a regular appointment could be made only by making appointments consistent with the requirements of Articles 14 & 16 of the Constitution of India and that it cannot also be relied on to claim the right to be absorbed in service even though they have never been selected in terms of the relevant recruitment rules.

6. In view of the above, the representation of the petitioner cannot be considered and the writ petition is devoid of merits and it is liable to be dismissed. Accordingly, this writ petition stands dismissed. There shall be no order as to costs.

04.09.2023.

Internet : Yes
Index : Yes/No
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W.P.No.21495 of 2012

To

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W.P.No.21495 of 2012

G.K.ILANTHIRAIYAN, J.

Lpp

W.P.No.21495 of 2012

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