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W.P.No. 28926 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No. 28926 of 2012

Sellammal

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Petitioner

Vs

1. State of Tamil Nadu,
Rep.by the Secretary to Government,
Education Department, Fort St.George,
Chennai – 9.

2. The Director of School of Education,
(Higher Secondary),
College Road,
Chennai – 6.

3. The Chief Educational Officer,
Namakkal,
Namakkal District.

4. The District Educational Officer,
Namakkal, Namakkal District.

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Respondents

PRAYER: Writ Petition has been filed under Art. 226 of Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to regularize the service of the petitioner in the light of the orders passed in W.A.No.1520 of 2010 dated 25.10.2010 and the order passed in W.P.No.18126 of 2008 dated 29.07.2008 with effect from the date of initial appointment of the petitioner with all monetary and service benefits.



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W.P.No. 28926 of 2012

For Petitioner : Mr.D.Senthur Kugan
for Mr.K.Sasindran

For Respondents : Mr.K.H.Ravikumar
Government Advocate

ORDER

This Writ Petition has been filed for direction directing the respondents to regularize the service of the petitioner with effect from the date of her initial appointment with all monetary and service benefits.

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

3. The petitioner was selected and appointed as part time Sweeper on 30.09.1994 and she had joined duty at Government High School, Pallakapalayam, Tiruchengodu Taluk, Namakkal District. The petitioner had completed 18 years of her service. However, her service was not regularized. Similarly placed persons were approached this Court and this Court directed the respondents to regularize their service and fix the time scale of pay in accordance with G.O.Ms.No.528, dated 10.10.2008. In pursuant to the order passed by this Court, service of the similarly placed



W.P.No. 28926 of 2012

persons were regularized and fixed their scale of pay in accordance with the said Government Order. Therefore, the petitioner made several representations to regularize her service. In fact, subsequently, the Government passed order in G.O.Ms.No.22, dated 28.02.2006 for the regularization of the candidates who have put 10 years or more than that of years of service.

4. Though the fourth respondent filed counter stating that G.O.Ms.No.22, dated 28.02.2006 is not applicable to the case of the petitioner, since she was appointed part time Sweeper, it differs from the daily wages employees. That apart, the petitioner did not work continuously, there was break up in her service. In order to comply with the order passed by this Court in several Writ Petitions filed by similarly placed persons, the Government passed G.O(D).No.247 School Education Department, dated 03.10.2012, thereby regularized the service of 614 part time workers. However, the case of the petitioner has not been considered so far.

5. The learned counsel appearing for the petitioner also relied



W.P.No. 28926 of 2012

upon various orders passed by this Court and this Court repeatedly held that the part time workers were also entitled for regularization of their service as per G.O.Ms.No.22, dated 28.02.2006. The said order was also confirmed by the Hon'ble Division Bench of this Court in W.A.No.1520 of 2010 dated 25.10.2010. Thus, it is also clarified that the said G.O. does not contain a clause that the regularization would be from the date of completion of 10 years. Therefore, they should be regularized from the date of appointment. It is not in dispute that the petitioner was appointed as part time Sweeper and she had joined in the Government High School, Pallakapalayam, Tiruchengodu Taluk, Namakkal District with effect from 30.09.1994. Though the fourth respondent contended that there was breaking service of the petitioner and she did not continuously worked for 10 years, the fourth respondent failed to substantiate the said contention by any material. Now, the petitioner attained the age of superannuation, on completion of 60 years. The petitioner has put in more than 10 years of service as part time Sweeper from the date of her appointment viz., 07.10.1994 and she is also entitled for regularization as per G.O.Ms.No.528, Personnel and Administrative Reforms (Per.F) Department, dated 10.10.1988 and as per G.O.Ms.No.22, Personnel and Administrative Reforms Department, dated 10.10.1988.

6. In view of the above, the third respondent is directed to



W.P.No. 28926 of 2012

regularize the service of the petitioner on her completion of 10 years of service with time scale of pay and disburse all monetary benefits to the petitioner as arrears of salary and pension within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that the petitioner's service is subject to the continuous service of 10 years of the petitioner from the date of her initial appointment i.e., 07.10.1994.

7. With the above direction, this Writ Petition stands allowed.

There shall be no order as to costs.

22.08.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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To

1. The Secretary to Government,
State of Tamil Nadu,
Education Department, Fort St.George,
Chennai – 9.

2. The Director of School of Education,
(Higher Secondary),
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G.K.ILANTHIRAIYAN, J.



W.P.No. 28926 of 2012

Lpp

WEB COPY

3. The Chief Educational Officer,
Namakkal,
Namakkal District.

4. The District Educational Officer,
Namakkal, Namakkal District.

5. The Public Prosecutor,
High Court, Madras.

W.P. No. 28926 of 2012

22.08.2023