



WEB COPY



W.P.No.21287 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.11.2023

CORAM :

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No.21287 of 2017

R.Chinnakalai

... Petitioner

-Vs-

1. The Government of Tamil Nadu,
rep. by its Secretary, School Education Department,
Fort St.George, Chennai – 600 009.
2. The Director of School Education,
DPI Campus, College Road, Chennai – 6.
- 3 The Joint Director of School Education, (personnel),
DPI Campus, College Road, Chennai – 6.
4. The District Educational Officer,
Trichirapalli, Trichirapalli District.
5. The Assistant Elementary Educational Officer,
Trichirapalli, Trichirapalli District.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 3 to regularize the petitioner's service as Sweeper from 03.01.1992 with time scale pay in terms of the G.O.Ms.No.528, Personal and Administrative Reform Department, dated 10.10.1988 as well as the Judgment of this Court reported in 2010 (1) CWC 721 affirmed in



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W.A.No.1520 of 2010 dated 24.10.2010 implemented in G.O.Ms.No.123,
School Education Department, dated 17.08.2011.

For Petitioner : Mr.V.Krishnamurthy
For Respondents : Dr.T.Seenivasan
Special Government Pleader

ORDER

This writ petition has been filed to direct the respondent 1 to 3 to regularize the petitioner's service as Sweeper from 03.01.1992 with time scale pay in terms of the G.O.Ms.No.528, Personal and Administrative Reform Department, dated 10.10.1988 as well as the Judgment of this Court reported in 2010 (1) CWC 721 affirmed in W.A.No.1520 of 2010 dated 24.10.2010 implemented in G.O.Ms.No.123, School Education Department, dated 17.08.2011.

2. The petitioner was selected through employment exchange and was placed as part time Sweeper in the office of the Assistant Elementary Education Office on a daily wage basis. He was appointed as such in the year 1992. The first respondent vide G.O.Ms.No.528, Personal and Administrative Reform Department, dated 10.10.1988 issued directions to regularize the post of Sweepers working in various departments.



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Hence, the petitioner gave a representation on 08.02.2016 seeking regularization, however no orders have been passed.

3. Learned counsel appearing for the petitioner submits that similarly placed persons appointed in the year 1990 in a Government Higher Secondary School having not granted regularization filed writ petition before this Court and this Court allowed the said writ petition as per G.O.Ms.No.528, Personal and Administrative Reform Department, dated 10.10.1988 and consequently direct the respondents to regularize the service of the writ petitioner therein from 01.11.1990 with monitory benefits. As against the said order, the Department preferred writ appeal and the writ appeal came to be dismissed by a Division Bench of this Court, as against which, SLP has been preferred before the Hon'ble Supreme Court and the same has also been dismissed. Hence, the order passed by the Writ Court was implemented by the Department.

4. Citing a similarly placed persons like the petitioner, the petitioner also seeks for regularization of his service from 03.01.1992 with time scale of pay in terms of G.O.Ms.No.528, Personal and



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Administrative Reform Department, dated 10.10.1988 as well as the judgment of this Court reported in **2010 (1) CWC 721** in the matter of

P.Subramani Vs. The Director of School Education and Ors.

5. Learned Special Government Pleader appearing for the respondents submit that though this Court has passed an order to regularize the service of part time sweepers engaged in Educational Institutions and the Division Bench of this Court has affirmed the same, the same was taken on appeal by the Government and the Hon'ble Supreme Court had ultimately allowed the appeal, rejecting the claim of the employees seeking for regularization. That apart, the petitioner in the present writ petition had already attained the age of superannuation and was relieved from service.

6. It is also stated by the learned Special Government Pleader appearing for the respondents that an earlier writ petition filed by the present writ petitioner along with similarly placed persons in W.P.(MD).Nos.14955 to 14957 of 2012 has been disposed of, wherein a direction was issued by this Court to pass orders on the representation of the writ petitioner. The said representation given by the petitioner was



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rejected by the respondents on the ground that the SLP is pending before the Hon'ble Supreme Court. Hence, the benefit accorded to the similarly placed persons cannot be extended to the writ petitioners in W.P.(MD).Nos.14955 to 14957 of 2012.

7. In view of the same, this Court is unable to entertain this writ petition as the issue involved in the present writ petition had already attained finality.

8. Hence, the writ petition stands dismissed. No costs.

03.11.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
mp



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V.BHAVANI SUBBAROYAN, J.

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