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Writ Appeal No.2707 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.07.2023

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal No.2707 of 2018
and C.M.P.No.22193 of 2018**

1. The Chief Educational Officer,
Cuddalore District, Cuddalore.
 2. The District Educational Officer,
Cuddalore District, Cuddalore.
 3. The Headmaster, Govt. High School,
Palur, Cuddalore District
- ... Appellants/ Respondents
- Vs
- B.Revathi
- ... Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed by the learned Judge in W.P.No.15137 of 2012 dated 18.07.2017, and thereby allow the above writ appeal.

For Appellants : Mr.K.V.Sajeev Kumar
Special Government Pleader

For Respondent : No appearance



JUDGMENT

WEB COPY (Judgement of the Court was made by Mr.K.KUMARESH BABU.,J.)

This intra-court appeal has been filed challenging the order passed by the Writ Court in W.P.No.15137 of 2012 dated 18.07.2017, wherein the learned single Judge had allowed the writ petition filed by the respondent herein and had directed the appellant herein to regularize the service of the respondent herein in the permanent post of Sweeper with effect from initial date of appointment in the regular time scale of pay and grant all the consequential service and monetary benefits and further stated that the said exercise shall be done within a period of six weeks from the date of receipt of a copy of the said order.

2. The respondent herein had been admittedly appointed as a Sweeper on 31.01.2001. She had initiated the writ petition seeking for regularization by relying upon the Government Order issued by the Government in G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006.

3. It is pertinent to note that in the aforesaid Government Order, the Government had taken a decision to regularize the service of the daily



wage employees working in all Government Departments, who were rendered 10 years of service as on 01.01.2006. For better appreciation, the relevant portion in the Government Order is extracted hereunder:

“ 3. The Departments of Secretariat may, therefore, be directed to pursue action to regularise the service of the daily wages employees working in all Government Department, who have rendered 10 years of service as on 1.1.2006 as ordered in para 2 above, in consultation with the respective Heads of Departments wherever necessary. In special cases wherein relaxation of rule is required, proposal shall be sent to Government.”

4. In this case, admittedly the respondent had been appointed only in the year 2001 and therefore, she could not have completed 10 years of service to consider regularization in the light of G.O.Ms.No.22, dated 28.02.2006. However, in the impugned order, the learned single Judge had relied upon an earlier decision of this Court made in W.P.No.20730 of 2012 and accepted the contention of the respondent herein.



Writ Appeal No.2707 of 2018

5. While reading of the above said order, which has been extracted in the impugned order and analysis of the order relied upon by the respondent relates to a case, where the learned single Judge had directed counting of service of the petitioners therein, who were appointed in a private school by the Parents Teacher's Association also. Hence, in our view, the aforesaid judgment cannot be a precedent to consider the claim made by the respondent herein.

6. For the aforesaid reasons, we find that the order passed by the learned single Judge is contra to the Government Order as the same is not applicable to the respondent herein and therefore, the impugned order in this writ appeal is set aside and the writ appeal is allowed. No costs. Connected miscellaneous petition is closed.

(R.S.K.,J.) (K.B., J.)
24.07.2023

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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Writ Appeal No.2707 of 2018

R.SURESH KUMAR., J.
and
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Writ Appeal No.2707 of 2018

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