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Writ Appeal Nos.2581 and 2643 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.08.2023

CORAM

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

**Writ Appeal Nos.2581 and 2643 of 2018
and C.M.P.No.21000 and 21480 of 2018**

W.A.No.2581 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.

... Appellant

Vs

K.Boopathy

.. Respondent

W.A.No.2643 of 2018

1. The State of Tamil Nadu,
Rep. By the Secretary to Government,
Department of Education,
Fort St.George,
Chennai – 600 009.
2. The District of Educational Officer,
Vellore, Vellore District.



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3. The Head Master,
Govt. Boys Higher Secondary School,
Timiri, Vellore District.

... Appellants

Vs.

D.Gnanavel

... Respondent

COMMON PRAYER: Writ Appeals filed under Clause 15 of Letters Patent Act, to set aside the final orders passed by the learned single Judge in W.P.Nos.15138 & 20396 of 2012 dated 18.07.2017 and 16.02.2017 respectively and thereby allow these writ appeals.

For Appellants : Mr.R.Kumaravel
Additional Government Pleader

For Respondent : No appearance

JUDGMENT

(Judgment of the Court was delivered by K.KUMARESH BABU,J.)

These intra-court appeals have been preferred by the unsuccessful respondents/Government, wherein the learned single Judge in both the writ petitions had directed the appellants to regularize the service of the respondents herein.

2. Heard Mr.R.Kumaravel, learned Additional Government Pleader appearing for the appellants.



3. In spite of notice served on the sole respondent in both the writ appeals, they neither chosen to appear in person nor through a counsel.

4. The case of the respondent in W.A.No.2581 of 2018 is concerned, he had been appointed to the post of Night Watchman in the year 2002 and had been continuously working till 25.11.2012 and thereafter, he was ousted from service. Aggrieved over the same, the respondent has filed a writ petition, wherein the learned single Judge has relied upon G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006 had directed the appellants to consider the case of the respondent and to regularize the service of the respondent in view of the G.O.Ms.No.47, School Education Department, dated 02.03.2012, wherein 5000 posts of sweepers and allied non-teaching staff were sought to be filled through regular appointment.

5. It is pertinent to note that, G.O.Ms.No.22 has been issued to regularize service of the persons, who were holding such posts for 10 years prior to the issuance of G.O alone. In the present case, the respondent admits that he had been appointed in the year 2002, therefore, he has not completed the service of 10 years prior to issuance of G.O, which was issued only in the year 2006.



6. On that ground alone, the direction issued by the learned single Judge is contra to the G.O. issued in the year 2006. Therefore, the direction issued by the learned single Judge in the impugned order in W.A.No.2581 of 2018 is set aside.

7. In respect of the other appeal i.e., W.A.No.2643 of 2018 is concerned, the respondent had admitted that, he had been appointed as a attender in the year 2008, therefore the respondent was ousted from service. When the Government under G.O.Ms.No.47, had taken a policy decision to appoint sweepers and allied non-teaching staff were sought to be filled through regular appointment, whoever completed the service of 10 years prior to issuance of G.O, the appellants cannot be directed to regularize the service of a person, who had been appointed on a temporary basis that too by the Parent Teacher Association.

8. Further, a temporary employee cannot seek for regularisation as a matter of right, therefore, on that aspect also, the learned Single Judge order will have to be set aside.



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9. In fine, both the writ appeals are allowed and the impugned orders passed by the learned single Judge are set aside. No costs.

Connected miscellaneous petitions are closed.

(R.S.K.,J.)

(K.B., J.)

01.08.2023

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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and
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mp

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