



W.A.No.4079 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2023

CORAM:

THE HONOURABLE Mr.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE Mrs.JUSTICE K.GOVINDARAJAN THILAKAVADI

W.A.No.4079 of 2019

and

C.M.P.No.25517 of 2019

1. The State of Tamil Nadu,
Rep. By the Secretary to Government,
School Education (R1) Department,
Secretariat, Chennai -9
 2. The Director of School Education,
College Road, Chennai 600 006.
 3. The District Educational Officer,
Vellore District.
 4. The Headmaster,
VKVM Govt. Girls Higher Secondary school,
Velapadi, Vellore District 632 001
- ...Appellants/Respondents

Vs.

1. P.Vimala
 2. J.Saroja
- ...Respondents/Petitioners

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order dated 17.01.2013 made in W.P.No.26155 of 2012.



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For Appellants : Mr.G.Nanmaran
Special Government Pleader
For Respondent : Mr.S.Ravichandran

J U D G M E N T

(Judgment was made by **R.SUBRAMANIAN, J.**)

The State is on appeal aggrieved by the directions to regularise the service of the respondents on the ground that they are entitled for the benefit of G.O.Ms.No.22 Personnel and Administrative Reforms Department, Dated 28.02.2006. Both the respondents were employed as sweepers in the 4th respondent school and they joined service on 01.01.92 and 01.07.1986 respectively. Aggrieved by the fact that their services were not regularised despite the Government having issued orders in G.O.Ms.No.22 Personnel and Administrative Reforms Department, Dated 28.02.2006 and G.O.Ms.111 School Education Department dated 09.05.2012. They also relied upon judgment of this Court [*A.Palani Vs. The State of Tamil Nadu and others*] and [*G.Chinnapaiyyan and others Vs. The State of Tamil Nadu and others*]. In the Counter affidavit that was filed in the writ Court, it was stated that the respondents services will be regularized on the basis of a scheme to be framed by the Government. The



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writ Court relying upon the judgment in *Palani* referred supra concluded that the respondents are entitled to the benefits conferred under G.O.Ms.22 dated 28.02.2006. On that premise, the writ Court allowed the writ petition.

2. Mr.Nanmaran, learned Special Government Pleader appearing for the appellants would vehemently contend that the benefits of G.O.Ms.22 dated 28.06.2002 cannot be granted to Part time employees. In support of the said contention he would relied upon G.O.Ms.No.74 Personal and Administrative Reforms (F) Department dated 27.06.2013 wherein it has been clarified that part-time employees would not be entitled to regularisation. Clause A of Para 6 of the said GO is particularly relied upon by Mr.Nanmaran to contend that G.O.Ms.No.74 has been given retrospective effect from 01.01.2006.

3. The contending contra Mr.Ravichandran, learned counsel appearing for the respondents would submit that the orders of the writ Court has been complied with by the appellants of course with the rider that they would be subject to the result of the appeal to be filed. He would



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also pointed out that G.O.Ms.No.74 cannot be given retrospective effect so as to nullify the direction issued by this Court earlier. It is the further contention that this Court in the case of **[The Principal Secretary to Government and others Vs. V.Annamuthu]** has held that the post of sweeper in a Government school cannot be kept as a part-time post as it is very much essential. While dealing with the said contention, the Division Bench in Paragraph 4 of the said judgment has observed as follows :-

4. In the present case, the post occupied by the respondent / petitioner is that of a Sweeper / Scavenger in a Government Higher Secondary School on part time basis, where the respondent has been continuing for the past 22 years. This Court, even otherwise, cannot imagine a school having thousands of children to be looked after for health and hygiene with the aid of a part time employee, that too, even a single Sweeper. We, therefore, find that the State Government rightly came up with a scheme for regular appointments and even assuming for the sake of argument that G.O.Ms.No.528, would not consequently apply keeping in view the nature of the vacancy or otherwise even, we are not inclined to interfere with the impugned Judgment on the ground that the post of a Sweeper or Scavenger in a Government school is a sine qua non and such post deserves to be made available to an institution keeping in view the nature of the requirement. We, therefore, are not inclined to interfere with the discretion exercised by the learned Single Judge under Article 226



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of the Constitution of India, without prejudice to the rights of the State to contest any other case, on the issue of Law, that may be involved therein.

4. The facts of the case on hand are almost similar to the facts of the case of V.Annamuthu. The attempted SLP against the judgement has been dismissed by the Hon'ble Supreme Court. We therefore find that the respondents would be entitled to the benefit of the said judgment of V.Annamuthu. We do not find any ground to interfere with the discretion exercised by the Writ Court in allowing the writ petition and conferring the benefits of regularization on the respondents. More so, when one of the respondent Sarojini is now no more. The writ appeal fails and it is accordingly dismissed confirming the judgment of the writ Court. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) (K.G.T., J.)
15.02.2023

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Index : Yes
Internet : No
Neutral Citation : Yes
Non Speaking order



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To

WEB COPY

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