



W.A.(MD)No.841 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.07.2023

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.841 of 2014 and
M.P.(MD)No.2 of 2014

- 1.The Secretary,
Education Department,
Government of Tamilnadu,
Fort St.George, Chennai – 600 009.
- 2.The Director of School Education,
College Road, Nungambakkam,
Chennai – 600 006.
- 3.The Chief Educational Officer,
C.E.E.O.'s Office,
Alagarkovil Road,
Thallakulam, Madurai District.
- 4.The District Educational Officer,
D.E.O.'s Office, Usilampatti,
Madurai District.
- 5.The Headmaster,
Government High School,
T.Ramanathapuram, Usilampatti Taluk,
Madurai District-625 535.

...Appellants

/Vs./

G.Subbulakshmi

...Respondent



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PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order dated 21.06.2013 made in W.P.(MD)No.9878 of 2013

For Appellants : Mr.V.Om Prakash
Government Advocate
For Respondent : Mr.G.Pandiarajan

JUDGMENT

(Judgment of the Court was delivered by **R.VIJAYAKUMAR, J.**)

This intra Court appeal has been filed by the State challenging the order of the Writ Court, wherein, the services of a Part-Time Sweeper were directed to be regularised from the date of completion of 10 years of service relying upon G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006.

2.According to the Writ Petitioner, she was appointed as a Part-Time Sweeper in the 5th appellant School on 24.07.1992 and she is in continuous service in the said post till now. She had sought for regularisation of her services and the said request was not considered and that she had filed a Writ Petition in W.P.(MD)No.15671 of 2012 requesting for expeditious disposal of her representation for



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regularisation.

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3.An order was passed in the said Writ Petition on 06.12.2012 directing the Educational Authorities to consider her request for regularisation within a period of eight weeks. In compliance with the said order dated 06.12.2012, an order was passed by the second respondent in the Writ Petition on 18.04.2013 rejecting the request of the Writ Petitioner on the ground that G.O.Ms.No.22, is not applicable to a Part-Time Employee and she was not appointed through Employment Exchange. Without challenging the said order, the Writ Petitioner has again chosen to file another Writ Petition in W.P(MD)No.9878 of 2013 seeking a Mandamus to direct the respondents therein to regularise her services with effect from 24.07.1992.

4.The Writ Court, after considering the objections raised by the State, relying upon G.O.Ms.No.22, had allowed the Writ Petition on the ground that the Hon'ble Supreme Court in various judgments had directed regularisation of the Part-Time Employees also. The said order of the learned Single Judge is under challenge in the present Writ Appeal.



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5. According to the learned Government Advocate, as per G.O.Ms.No.22, only Full-Time Employees are entitled to be regularised upon completion of ten years of service on the date of that Government Order. However, admittedly, the Writ Petitioner, being a Part-Time Employee and not being appointed through Employment Exchange, she is not eligible to the benefit under the said Government Order. Therefore, the Writ Court was not right in issuing a positive direction to the authorities to regularise the services of a Part-Time Employee.

6. There is no representation on the side of the respondent on two occasions. Therefore, we are proceeding to pass orders on merits based upon the submissions made by the learned Government Advocate appearing for the appellants.

7. A perusal of G.O.Ms.No.22, Personnel and Administrative Reforms (F) Department dated 28.02.2006, makes it clear that the employees, who are on daily wages, would be brought into regular establishment on completion of ten years of service as on 01.01.2006. This Government Order has been clarified in G.O.(Ms)No.74 dated 27.06.2013 to the effect that the said benefit under G.O.Ms.No.22 is not



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available to Part-Time and casual employees.

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8.That apart, under order dated 18.04.2013, the request of the Writ Petitioner for regularisation of her services has been rejected. Without challenging the said order, the present Writ Petition has been filed seeking a Mandamus, which is not maintainable.

9.The Honourable Supreme Court in the case of *State of Rajasthan and others vs Daya Lal and others* [(2011) 2 SCC 429], has categorically held that the services of the Part-Time Employee cannot be regularised.

10.In view of the aforesaid deliberations, the order in W.P(MD)No.9878 of 2013 dated 21.06.2013 is set aside and the Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

[A.S.M.J.] & [R.V.J.]
13.07.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes
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AND
R.VIJAYAKUMAR, J.

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