



W.P.(MD) No.9582 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD) No.9582 of 2018

S.Pandimeenal

... Petitioner

-VS-

1.The Principal Secretary to Government
School Education Department
Fort St. George,
Chennai 600 009.

2.The Director of School Education,
College Road
Chennai 600 009.

3.The Chief Educational Officer,
Sivagangai.

4.The District Education Officer,
Devakottai
Sivagangai District.

5.The Assistant Elementary Educational Officer,
Devakottai.

... Respondents



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Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the 4th respondent in proceedings O.Mu.No.725/A1/2018 dated 31.01.2018 and quash the same and consequently direct the respondents to count the petitioner's period from 13.10.2000 to 10.05.2006 as duly period for all service benefits including continuity of service, seniority and other attendant benefits.

For Petitioner	:	Mr.R.Prem Narayanan
For Respondents	:	Mr.S.Saji Bino Special Government Pleader

ORDER

The petitioner is before this Court challenging the impugned order of the 4th respondent dated 31.01.2018 and for a direction to the respondents to count the petitioner's service from 13.10.2000 to 10.05.2006 as duty period for all service benefits including continuity of service, seniority and other attendant benefits.

2. The case of the petitioner in nutshell is as follows:

Initially the petitioner was appointed as Part Time Sweeper in the year 1995 through employment exchange. Pursuant to G.O.Ms.No.



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123 dated 12.05.2000, the ban has been lifted and a direction was issued to absorb all the part time employees as regular employees. Pursuant to the said G.O., the 4th respondent issued an order dated 13.10.2000 appointing the petitioner in the Tamil Nadu Basic Service and posted as Watchman in the Government Higher Secondary School, Anumanthakudi. However, without any show cause notice and without any opportunity of being heard, she was reverted back to the post of Part Time Watchman by cancelling the regular appointment. Aggrieved by the same, he filed OA No.5631 of 2001, wherein an order of stay has been granted and since the reversion order has been given effect to, the contempt, which was filed for violation, was closed. However, subsequent to the abolition of the Tribunal, the said petition was renumbered as WP No.11688/2005 and this Court allowed the writ petition and subsequently, the 4th respondent issued an order dated 10.05.2006 reinstating the petitioner into service. Since the reversion was set aside, the petitioner is entitled for the service benefits including continuity of service from 13.10.2000, seniority, allotment of GPF etc. However, since the same was rejected on the ground that temporary service cannot be calculated for the purpose of regularization,



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challenging the same, the petitioner is before this Court.

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3. The learned counsel for the petitioner would submit that the respondent confused themselves as if the petitioner sought retrospective regularization from the date of initial appointment in the post of Sweeper. However, the grievance of the petitioner is that the service benefits including continuity of service from 13.10.2000 till the date of retirement ought to have been considered by virtue of the order of this Court. However, the respondents have passed a wrong impugned order and hence, he prays for interference.

4. In the counter affidavit, it is averred that the petitioner has misunderstood the order of this Court in the above writ petition as if she was allowed to continue in the old position. However, the fact remains that this Court directed the respondents to accommodate the petitioner in the available vacancy. As per the said direction to the effect that the petitioner is to be accommodated in the available or in the future vacancy, he was accommodated in the available vacancy on 10.05.2006 and he was regularized from the date of such appointment. When that



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be so, the prayer that has been sought for is against the decision of the Apex Court in Civil Appeal Nos.2726-2729 and 2730-2731 of 2014 dated 21.02.2014. On these grounds, the respondents pray for dismissal of the writ petition.

5. Heard the learned Special Government Pleader on the submissions made by the learned counsel for the petitioner.

6. The fact that the petitioner was appointed as part time Sweeper and subsequently, on regular appointment. The petitioner was paid time scale of pay from 12.05.2000 in terms of G.O.Ms.No.123 dated 12.05.2000. However, a reversion order was passed against the petitioner, thereby reverting back the petitioner to part time watchman, which was challenged before this Court and this Court disposed of the said writ petition in WP No.11688 of 2005 dated 27.02.2006. A perusal of the decision makes it clear that when the Government has specifically passed order dated 12.05.2000 in terms of G.O.Ms.No.123, to the effect that as far as the post of Watchman, Gardener and Sweepers are concerned, the impugned ban in the letter dated 20.01.1995 will not apply. Basing on



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this Government letter alone and referring this Government letter, the appointment orders have been issued to the petitioner on 13.10.2000. As such the order of reversion is not sustainable. When this Court arrived at such a conclusion, the petitioner is entitled to the service benefits from the date of appointment till the date of reinstatement, ie., 13.10.2000 to 10.05.2006.

7. In the result, the writ petition is allowed and the respondents are directed to regularize the service of the petitioner from 2000 to 2006 and extend all the service and monetary benefits, within a period of six weeks from the date of receipt of a copy of this order. No costs.

21.02.2023

NCC : Yes/No
Index : Yes/No

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M.DHANDAPANI, J.

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