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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.14262 of 2016

1. R.Palayan
2. Pushpadas
3. C.Rajendran
4. A.Flory
5. R.Thampiraj

... Petitioners

–Vs. –

The Principal Secretary to Government,
Government of Tamilnadu,
School Education Department,
Secretariat, Chennai.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the respondent to amend the G.O.No.153 dated 30.09.2011 in the similar manner already amended in G.O.No.111 by G.O.No.247 so that the petitioners will be able to get benefits from our dates of regularization.



For Petitioners : Mr.R.Maheswaran
For Respondents : Mr.V.Om Prakash
Government Advocate

ORDER

This writ petition is filed for Writ of Mandamus directing the respondents to amend the G.O.Ms.No.153, dated 13.09.2011 in the similar manner already amended in G.O.No.111 by G.O.No.247 so that the petitioners will be able to get benefits from the dates of regularization on completion of 10 years.

2. Heard Mr.R.Maheswaran, the Learned Counsel appearing for the petitioner and Mr.V.Om Prakash, the Learned Government Advocate appearing for the respondents and perused the material documents placed on record.

3. The petitioners were appointed as Sweepers who were selected through Employment Exchange and posted in various Schools in Kanyakumari District. Except the petitioners 3 and 5 others had already retired from service. The petitioners' services were regularized after 10 years of joining the service and



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monetary benefits were granted to the petitioners from the date of passing the G.O.No.153 School Education (R1) Department dated 30.09.2011 and accordingly they were granted monetary benefits only from 30.09.2011. But the petitioners are claiming the benefits from the date of completion of 10 years.

4. The petitioners relied on the similar benefits granted to one Saimanraj. The said Saimanraj was granted benefits only from the date of issuance of G.O.(3D) No.108 dated 18.07.2011. But subsequently, the said GO was amended by issuing another G.O.3D.No.139 dated 10.11.2011 and granted all benefits from the date of completion of 10 years. The contention of the petitioners cannot be accepted, since the said G.O.No.108 dated 18.07.2011 read with G.O.(3D)No.139 dated 10.11.2011 was passed based on the Contempt proceedings. Any Government order is passed to obey the Order of the Court, based on the Contempt proceedings, cannot be cited as precedent and the said G.O. is applicable only to the said Saimanraj alone.

5. The further contention of the petitioner is that in a similar circumstance the respondents had already passed another G.O.Ms.No.111, School



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Education (R1) Department, dated 09.05.2012 whereby 614 persons similarly worked as Sweepers in various Schools were granted regularization from the date of passing the G.O. Later on, the said 614 persons submitted a representation to the respondents to regularize their service from the date of completion of 10 years. Considering the claim, the Government has issued G.O.No.247 School Education (R1) Department dated 13.10.2012, whereby the paragraph No.6 in G.O.No.111 was deleted. In paragraph 6 it is mentioned **“benefits from the date of passing G.O.Ms.No.111”** and the said sentence was deleted. In effect the regularization was granted from the date of completion of 10 years.

6. On perusing the G.O.Ms.No.111, it is seen that the said G.O. states that the benefits would be applicable from the date of issuance of the G.O. only. But subsequently, the Government has modified the said GO by issuing G.O.No. 247, especially deleted the paragraph No.6 in G.O.No.111. However, the Learned Government Advocate submitted that if the claim of the petitioners were accepted it would put the government under financial constraints and this submission of the respondents is recorded. Therefore, this Court is directing the 1st respondent to consider the claim of the petitioners in the light of the G.O.No.111 and G.O.No.



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247. The said claim shall be considered within a period of 12 weeks from the date of receipt of the copy of the order.

7. With these observations and directions, this writ petition is disposed of. There shall be no order as to Costs.

Index : Yes / No
Internet : Yes
ksa

21.06.2023

To

The Principal Secretary to Government,
Government of Tamilnadu,
School Education Department,
Secretariat, Chennai.



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S.SRIMATHY, J

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**Order made in
W.P.(MD)No.14262 of 2016**

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