



W.P.(MD).No.23531 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.23531 of 2023

K.Prasad

... Petitioner

Vs

1. The Chief Educational Officer,
Nagercoil, Kanyakumari District.
2. The Headmaster,
Government Middle School,
Kodungulam, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to regularize service of Petitioner's father as Full-Time sweeper on the date of completion of ten years of part time service from 29.10.1963 and to pay time scale of pay and other benefits payable, with effect from 29.10.1973 by counting the 50 percentage of part time service for the purpose of pension in the light of the order passed in W.A.(MD).No.93/2018, dated 27.03.2018 as confirmed by the apex Court by dismissal of S.L.P.No.23960 of 2018 and in the light of Government Order in G.O.Ms.No.111, School Education (R1) dated 09.05.2012.



WEB COPY



W.P.(MD).No.23531 of 2023

For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The present writ petition has been filed seeking a direction to the respondents to regularize service of Petitioner's father as Full-Time sweeper on the date of completion of ten years of part time service from 29.10.1963 and to pay time scale of pay and other benefits payable, with effect from 29.10.1973 by counting the 50 percentage of part time service for the purpose of pension in the light of the order passed in W.A.(MD).No.93/2018, dated 27.03.2018 as confirmed by the apex Court by dismissal of S.L.P.No.23960 of 2018 and in the light of Government Order in G.O.Ms.No.111, School Education (R1) dated 09.05.2012.

2.By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



W.P.(MD).No.23531 of 2023

WEB COPY

3.Heard, Mr.R.Maheswaran, learned counsel appearing for the petitioner, Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the respondents. Perused the materials on record.

4.(i).The petitioner's father was appointed as Part Time Sweeper in the second respondent School, vide appointment order, dated 29.10.1963 and he was sponsored by the Employment Exchange. Though the nomenclature of the said post is Part time Sweeper, the nature of work is that of a full time employee. The Government passed G.O.Ms.No.22 to regularize the service of daily wage employee of all Government Departments, who acquired 10 years of service as on 01.01.2006. Since the petitioner's father has rendered service for more than 40 years, he has made representations to regularize his service, based on G.O.Ms.No.22.

(ii). In the meanwhile, the Government has identified 614 Part time sweepers and issued a Government Order in G.O.Ms.No.111, dated 09.05.2012 to regularize the service of 614 Part Time Sweepers, including the petitioner's father. Despite the said Government Order, the service of the petitioner's father is not regularized so far. Now the petitioner's father passed away. Therefore,



W.P.(MD).No.23531 of 2023

the petitioner sent a representation, dated 28.07.2023 and the same was not considered. Hence, the writ petition came to be filed.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

6. In view of the limited relief sought for by the petitioner, this Court hereby direct the respondents to consider the representations of the petitioner, dated 28.07.2023, in light of G.O.Ms.No.111 School Education Department, dated 09.05.2012 and pass appropriate orders in accordance with law, within a period of twelve (12) weeks, from the date of receipt of a copy of this order.



W.P.(MD).No.23531 of 2023

7. Accordingly, this writ petition stands disposed of. There shall be

no order as to costs.

26.09.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes

PNM

To

1. The Chief Educational Officer,
Nagercoil, Kanyakumari District.
2. The Headmaster,
Government Middle School,
Kodungulam, Kanyakumari District.



WEB COPY



W.P.(MD).No.23531 of 2023

L.VICTORIA GOWRI, J.

PNM

ORDER IN
W.P.(MD).No.23531 of 2023

26.09.2023