



W.P.No.22939 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.22939 of 2012

and

M.P.No.1 of 2014

K.Velayutham

...Petitioner

-Vs-

1. The Government of Tamil Nadu represented
by the Secretary to the Government,
School Education Department,
Fort St. George, Chennai – 600 009.
2. The Director of School Education,
College Road, Chennai – 600 009.
3. The District Elementary Educational Officer,
Kancheepuram, Kancheepuram District.
***R3 deleted from the array of respondents vide
order dated 08.03.2023 made in M.P.No.1 of 2014
in W.P.No.22939 of 2012*
4. The District Educational Officer,
Kancheepuram, Kancheepuram District.
***R4 impleaded vide order dated 08.03.2023
made in W.M.P.No.17529 of 2022 in
W.P.No.22939 of 2012*

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Mandamus directing the respondents to extend to the petitioner the benefits granted in G.O.Ms.No.111, School Education (R1) Department dated 09.05.2012 and regularize his services and grant all consequential benefits including pensionary benefits to the petitioner.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.D.Gopal
Government Advocate

ORDER

This writ petition is filed for issuance of a writ of mandamus to direct the respondents to extend to the petitioner the benefits granted in G.O.Ms.No.111, School Education (R1) Department, dated 09.05.2012, and regularize his services and grant all consequential benefits, including pensionary benefits to the petitioner.

2. The case of the petitioner is that he was working as Part-time Sweeper at the Office of the Assistant Elementary Educational Officer, Uthiramerur, Kancheepuram District, and retired from service on 31.07.2008 on attaining the age of superannuation. He was initially appointed as Helper at the Central Kitchen, Uthiramerur, on 12.06.1972, and worked as Helper



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from 12.06.1972 to 14.09.1982. After that, he was terminated on 14.09.1982 and was appointed as Cook at the Panchayat Union Elementary School, Vadanallur, on 15.09.1982 and worked till 1986. In 1991, he was appointed as Part-time Sweeper by the proceedings of the District Educational Officer, Kancheepuram, in Na.Ka.No.14533/A1/90 dated 05.02.1991. The said appointment was made through the Employment Exchange, and he joined duty on 07.02.1991, and has been working continuously since then. Further, his services were not regularized.

3. Learned counsel for the petitioner submitted that number of representations were given by the petitioner to the District Educational Officer, Kancheepuram, praying for regularisation of his services. Since no action was taken on his representations, he submitted a petition to the Chief Minister's Special Cell on 29.03.2005. On the said petition, he received a reply from the District Elementary Educational Officer, Kancheepuram (3rd respondent herein) in O.Mu.No.2674/A1/05 dated 20.12.2005, stating that at the time of his appointment as Part-time Sweeper on 07.02.1991, he was aged 43 years and that he had crossed the age limit. At the time of his said appointment, particulars had been sent by the District Educational Officer,



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Kancheepuram, to the Director of School Education, Chennai-6, in proceedings vide Na.Ka.No.4221/A1/2000 dated 20.07.2000. In response to the particulars called for by the Director of School Education vide Na.Ka.No.56345/R8/2000 dated 30.06.2000, appropriate orders will be issued on receipt of orders from the Director of School Education. Learned counsel further submitted that in the case of similarly placed employees, orders of relaxation have been issued.

4. A counter affidavit was filed on behalf of the 3rd respondent on 28.09.2022, and a rejoinder was also filed by the petitioner to the counter affidavit filed by the 3rd respondent dated 17.04.2023.

5. Per contra, the learned Government Advocate appearing for the respondents submitted that initially the petitioner was appointed as Helper on daily wages at the Central Kitchen, Uthiramerur, from 12.06.1972 to 14.09.1982. Thereafter, the petitioner registered his name at the District Employment Exchange only on 26.10.1990. The petitioner was appointed as a Part-time Sweeper on daily wages on 05.02.1991 and he joined the service on 07.02.1991. Hence, his period of regularisation will be calculated only



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from 07.02.1991, the date he joined in the post of Part-time Sweeper. He was about 43 years old at the time of his appointment. Hence, he was not regularised. Learned Government Advocate further submitted that initially the case of the petitioner was rejected by the respondents, and thereafter, G.O.Ms.No.111, School Education (R1) Department dated 09.05.2012, issued regularizing and eligibility conditions for more than 600 employees for regularization to the post of Sweeper. Thereafter, the petitioner gave a representation on 12.06.2012, to the Government for regularisation of service.

6. Learned Government Advocate further submitted that the petitioner was not a party in the earlier writ petition filed by the similarly placed employees and he was also not on the list of 614 persons whose names were referred in G.O.Ms.No.111, School Education (R1) Department, dated 09.05.2012.

7. Heard both sides and perused the materials available on record.

8. In the case on hand, it is an admitted fact that the petitioner namely, K.Velayutham was sponsored by the employment exchange and was



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appointed by the proceedings of the 4th respondent vide Na.Ka.No.14533/A1/90 dated 05.02.1991 and he joined as Part-time Sweeper on 07.02.1991, at the time of appointment, he was aged 43 years old. Hence, he was not regularised. He made several representations for regularisation, but the same was rejected. Thereafter, G.O.Ms.No.111, School Education (R1) Department, dated 09.05.2012 was issued, regularising the eligibility condition 614 for similarly placed employees, and they have been granting regularisation of service. Thereafter, the petitioner gave a representation on 02.06.2012 to the 1st respondent (seeking for regularisation of service), despite his representation not being considered, but they similarly placed persons.

9. The learned counsel for the petitioner invited the attention of this Court to the proceedings of the Joint Director of School Education (Personnel), Chennai, dated 13.08.2021, wherein the details of some of the employees at the time of employment were sought for from the concerned authority for regularising the service. Even though the respondents are regularising the service of the part-time employees, the case of the petitioner was not considered while he was in service. He was superannuated in the



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year 2005 and aged about 75 years.

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10. In view of G.O.Ms.No.111, School Education (R1) Department, dated 09.05.2012, regularisation of similarly placed persons in the service of the petitioner should also be regularised by the respondents.

11. In view of the above facts and circumstances of this case, this Court is of the considered view that the service of the petitioner has to be regularised by the respondents from the date of his appointment on 05.02.1991 as per G.O.Ms.No.111, School Education (R1) Department, dated 09.05.2012, consequently monetary benefit to which he is entitled in view of regularisation has to be settled to the petitioner within a period of twelve weeks from the date of receipt of a copy of the order.

12. In the result, the writ petition is allowed with the above direction.
No costs. Consequently, connected miscellaneous petition is closed.

01.02.2024

cda

Index : Yes/No

Speaking/Non Speaking order



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J.SATHYA NARAYANA PRASAD, J.

cda

To

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Government of Tamil Nadu,
School Education Department,
Fort St. George, Chennai – 600 009.
2. The Director of School Education,
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