



WEB COPY



W.P.No.9909 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.9909 of 2021 and
W.M.P.Nos.30013 & 10526 of 2021

C.Ganesan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep by the Secretary to Government,
School Education Department,
Secretariat, Chennai 600 009.
- 2.The State of Tamil Nadu,
Rep by the Secretary to Government,
Personal and Administrative Reform (P&F)
Department,
Secretariat, Chennai 600 009.
- 3.The Directorate of School Education,
College Road, Chennai 600 006.
- 4.The District Educational Officer,
Government Higher Secondary School Campus,
Mohanur - Namakkal Road,
Thillaipuram, Periyapatti,
Tamil Nadu 637 001.
- 5.The Head Master,
Government Higher Secondary School,
Sellampatti 637 019,
Namakkal District.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 and 3 to regularise the service of the petitioner in the light of G.O.Ms.No.111, School Education Department dated 09.05.2012 and G.O.Ms.No.247, School Education Department dated 03.10.2012 with effect from the date of initial appointment i.e., 28.06.1991 with all monetary and service benefits.

For Petitioner : Mr.P.A.Arvinth Vivek for
Mr.I.Saddam Hussain
For Respondents : Mr.P.Gurunathan, AGP

ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus, to direct the respondents 1 and 3 to regularise the service of the petitioner in the light of G.O.Ms.No.111, School Education Department dated 09.05.2012 and G.O.Ms.No.247, School Education Department dated 03.10.2012 with effect from the date of initial appointment i.e., 28.06.1991 with all monetary and service benefits.

2. Heard Mr.P.A.Arvinth Vivek, learned counsel for the petitioner and Mr.P.Gurunathan, learned Additional Government Pleader for the respondents.



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3. The petitioner was appointed in the post of sanitary worker on temporary basis on 28.06.1991 and he joined service on 01.07.1991 in the fifth respondent school.

4. As per the submission of the learned counsel for the petitioner, the petitioner was working in the fifth respondent School for more than 25 years and similar such persons have been regularised by the Government Order passed in G.O.Ms.No.111 dated 09.05.2012. He submitted that the petitioner's claim has to be considered on the basis of G.O.Ms.No.22 dated 28.02.2006.

5. The learned Additional Government Pleader for the respondents submitted that G.O.Ms.No.22 dated 28.02.2006 is applicable only for those persons who were working as full time employees and the petitioner is a part time sanitary worker.

6. The status of full time and part time is depending upon the nature of the work executed by the employees. The sanitary worker like



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the petitioner was engaged by the fifth respondent Government School for years together and that would only show that the work is a permanent nature and it is not a temporary work. Instead of having the post as permanent and appointing the persons on regular basis, the Government has chosen to appoint them on consolidated pay. The petitioner who is executing the sanitary work in the School cannot say that he can do such work for an hour or two or thereafter go. Since he has to keep the premises clean for the entire hours during which the student and the staff members are available in the school premises, the services of the sanitary worker doing such work cannot be considered as part time worker.

7. Even though the order of appointment says that it is a part time, the nature of the work involves full time and hence it has to be considered as a full time work only. Law on this point is no more *res integra*. In various judicial pronouncements, it has been held that the perennial requirement of jobs as sanitary workers should not be classified as a part time work and such consideration is only an act of exploitation.



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8. Excepting the objection on the ground that the petitioner is a part time employee, no other objection has been raised by the respondents for regularising the service of the petitioner. The petitioner has completed more than 10 years of service in the fifth respondent School. Hence the petitioner's case will fall within the purview of G.O.Ms.No.22 dated 28.02.2006. Since the petitioner has already given a representation in this regard, it is appropriate for the respondents to consider the same and pass orders.

9. In the result, this Writ Petition is disposed and the respondents are directed to consider the representation of the petitioner and pass orders to regularise the services of the petitioner on par with similarly placed persons in whose interest the Government Orders for regularisation have already been passed and issue similar such order to the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

14.03.2024



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R.N.MANJULA, J.

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To

- 1.The Secretary to Government,
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