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W.P.No.12758 of 2020
and W.P.Nos.15753 & 15754 of 2020



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.12758 of 2020
and W.P.Nos.15753 & 15754 of 2020

1.S.Alagammai,
W/o Late.Solai
Scavenger Rtd.
Thanjavur Arunachalam Chettiar
Higher Secondary School,
Kottaiyur,
Sivagangal District.

2.P.Valli,
W/o Periakaruppan
Sweeper cum Water Carrier,
Thanjavur Arunachalam Chettiar
Higher Secondary School,
Kottaiyur,
Sivagangai District.

...

Petitioners

versus

1.The Government of Tamil Nadu,
Principal Secretary to the Government,
School Education Department,
Fort St.George, Chennai-9

2.The Director of School Education,
College Road, Chennai-6



3.The Chief Educational Officer,
Sivagangai District, Sivagangai.

4.The District Educational Officer,
Sivagangai District, Sivagangai.

5. The Headmaster,
Thanjavur Arunachalam Chettiar
Higher Secondary School,
Kottaiyur, Sivagangai District. ...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in relation to the letter No.31718/SE.4(1)/2017 dated 03.01.2018, issued by the 1st respondent and quash the same and issue a consequential direction to the respondents to appoint the petitioner permanently on completion of 10 years of service as scavenger and sweeper cum water supplier respectively or in any one of sanctioned post in basic service and to grant all the benefit including terminal benefit.

For Petitioners : Mr.R.Saseetharan

For Respondent Nos.1 to 4 : Mr.P.Gurunathan
Additional Government Pleader

For Respondent No.5 : No Appearance

ORDER

The petitioners have filed this writ petition, challenging the proceedings of the 1st respondent dated 03.01.2018 and to issue direction to the respondents to appoint the petitioners permanently on completion of 10 years of service as Scavenger and Sweeper-cum-Water Supplier respectively with all terminal benefits.



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2. Heard Mr.R.Saseetharan, learned counsel for the petitioners and Mr.P.Gurunathan, learned Additional Government Pleader for the respondents 1 to 4 and perused the materials available on record.

3. The first petitioner was appointed as a Scavenger on 24.10.1974 and the second petitioner was appointed as Sweeper-cum-Water Carrier on 24.10.1985 in the 5th respondent School on daily wage basis. The first petitioner has completed 41 years of service and the second petitioner has completed 35 years of service. The Government Order has been issued in G.O.(Ms)No.68 School Education Department dated 18.04.2013 to regularise the part-time employees on completion of 10 years of service with regular time scale of pay.

4.The petitioners have filed a Writ Petition in W.P.No.39693 of 2016 and got an order dated 28.11.2016 by directing the respondents to consider the representation of the petitioners. However, the first respondent had chosen to reject the representation of the petitioners stating that G.O.(Ms)No.528 Personal and Administration Reforms (Per.F) Department dated 10.10.1988 is applicable only to the full-time employees and not to



the part-time employees and regularisation of the petitioners on completion of 10 years will run against the order of the Hon'ble Supreme Court in Civil Appeal Nos.2726, 2727 and 2729 of 2014 dated 21.12.2014.

5. No doubt, the petitioners have been appointed as Scavenger and Sweeper-cum-Water Carrier in the 5th respondent School. But they have paid with daily wages and not on hour wages. So the very nature in which the petitioners wages have been paid and their type of engagement would only show that the petitioners are engaged full-time even though they have been called as part-time employees.

6. It is also submitted by Mr.R.Saseetharan, learned counsel for the petitioners that the petitioners had to remain at School from morning to evening even after the students left, to clean the premises. Hence, it cannot be claimed by the respondents that G.O.(Ms)No.528 Personal and Administration Reforms (Per.F) Department dated 10.10.1988 is not applicable to the case of the petitioners. In the order of the Hon'ble Supreme Court also, what is dealt is only part-time nature of an employment and not the full-time work.



7. The position has been settled in various judicial pronouncements that the nature of work depends full-time attention even if the appointment order states that the petitioner has been appointed on part-time basis, they will have to consider only as full-time employees. Since the very reason for rejecting the petitioners' representation is only on the ground that they are part-time employees, the impugned order is liable to be set aside.

Accordingly, this Writ Petition is **allowed** and the impugned order passed by the 1st respondent dated 03.01.2018 is set aside. The respondents are directed to consider the representation of the petitioners in the light of the above observation and by giving benefit of G.O.(Ms)No.528 Personal and Administration Reforms (Per.F) Department dated 10.10.1988 and pass appropriate orders, within a period of six (6) weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

21.03.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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- To
- 1.The Secretary to the Government,
Government of Tamil Nadu,
School Education Department,
Fort St.George, Chennai-9
 - 2.The Director of School Education,
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 - 3.The Chief Educational Officer,
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R.N.MANJULA, J.

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