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W.P.No.24759 of 2023 etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.24759, 24762, 24765, 24767,
24769, 24772 & 24774 of 2023

W.P.No.24759 of 2023:-

Stella Mary

...Petitioner

-Vs-

1. The Secretary to Government,
Public Health & Family Welfare Department,
Secretariat, Fort St George, Chennai 600009.
2. The District Collector,
First Floor, Collectorate,
Kancheepuram,
Cheyyar-Kancheepuram Road,
Kancheepuram Distirct.
3. The District Collector,
Collectorate Office,
G.S.T. Road,
Chengalpet District 603 001.
4. The Director Of Medical Education,
166 Poonamallee High Road,
Chetpet, Chennai 60003.
5. Joint Director Of Medical Education,
166 Poonamallee High Road,
New Bhupathy Nagar,
Chetpet, Chennai 600003.
6. The Principal,



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Chengalpet Medical College & Hospital,
VOC Nagar, Chengalpattu District,
Chengalpet 603 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 22.02.2023 vide Na.Ka.No.4710/Ne4/3/2021-1 passed by the fourth respondent and quash the same and consequently direct the fourth and sixth respondents to regularize the services of the petitioner from the date of initial appointment dated 22.05.2008 and confer all consequential service and monetary benefits based on the letter dated 17.04.2018 issued by the sixth respondent in Na.Ka.No.6743/Gen, 2017 within a time frame fixed by this Court.

In all WPs.

For Petitioner	: Mr.R.Abdul Mubeen
For Respondents	
For R1, R4 to R6	: Mr.M.Brindan Additional Government Pleader
For R2 & R3	: Mrs.R.L.Karthika Government Advocate

COMMON ORDER

These writ petitions have been filed challenging the order dated 22.02.2023, passed by the fourth respondent, thereby rejected the request made by the petitioners for regularization of their service from the date of their initial appointment.



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2. The petitioners were engaged as Sanitary Worker through private agency from the year 2000 in the sixth respondent college. From the year 2014, the petitioners were working as contract sanitary worker on daily wage basis. By virtue of G.O.Ms.No.385 Finance (Salaries) Department dated 01.10.2010, the petitioners are claiming regularization of their service. They were continuously working without interruption for the past 23 years. Therefore, the petitioner submitted representation for regularization of their service as Sanitary Worker by virtue of G.O.Ms.385 dated 01.10.2010.

3. The sixth respondent by its communication dated 17.04.2018, addressed to the fourth respondent, thereby informed that permanent posts of 75 vacancies for Sanitary Workers has been vacant and it can be filled up. Therefore, the petitioners sent representations and the same were not considered as such the petitioners were constrained to approach this Court in W.P.No.482 of 2021 etc., batch. This Court by a common order dated 14.07.2011, directed the fourth respondent herein to pass orders on merits and in accordance with law within a period of twelve weeks. As directed by this Court, the fourth respondent by an order dated 22.02.2023, rejected the claim made by the petitioners on the



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ground that the petitioners are not in regular service and they are not eligible for regularization.

4. Heard the learned counsel appearing on either side and perused the material placed before this Court.

5. On perusal of the counter affidavit filed by the respondents revealed that in G.O.(Ms.)No.385 Finance (Salaries) Department dated 01.10.2010, the government issued orders to fix special time scale of pay, subject to the conditions that the Sanitary Workers, those who are working in the government offices and local bodies on the basis of daily wages of consolidated pay, should be worked minimum period of three years in the government office or local bodies. The heads of the departments should verify and to certify the names & number of the sanitary workers and period of work completed by them.

6. On verification of records finds that the petitioners were not regularly appointed either on consolidated pay or on the basis of daily wages. No appointment orders issued to the petitioners by the sixth



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respondent. Further the wages for the petitioners were given from the medical college hospital maintenance funds. That apart, they had not worked for three years. Therefore, without any order of appointment, the petitioners were engaged for the purpose of sanitary work in the sixth respondent college. They were working as daily wages through private agency and it is outsourcing agency. Therefore, they were not directly engaged by the fourth or sixth respondent and they were engaged through outsourcing agency as such they are not claimed regularization of their service. Therefore, this Court finds no infirmity or illegality in the order passed by the fourth respondent.

7. Accordingly, all the writ petitions are dismissed. There shall be no orders as to costs.

13.03.2024

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
rts

G.K.ILANTHIRAIYAN. J.

rts

To

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Public Health & Family Welfare Department,
Secretariat, Fort St George, Chennai 600009.



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