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W.P.No.9027 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.9027 of 2017

J.Pankajam

... Petitioner

Vs.

1. The Secretary to Government,
School Education Department,
Fort St. George, Chennai – 600 009.

2. The Director of School Education,
E.V.K Sampath Maligai,
Nungambakkam, Chennai – 600 034.

3. The District Educational Officer,
Thanjavur District, Thanjavur.

4. The District Collector -cum- Administrator,
Raja Chatram, Thanjavur District.

5. The Headmaster, Raja Higher Secondary School,
Thanjavur, Thanjavur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent culminated in Letter No.3519/PK6(2)/2013-2 dated 17.06.2013 and quash the same and consequently direct the respondents to regularize the services of the petitioner from the initial date of appointment i.e., 01.10.1981 with all backwages and other consequential service benefits including the arrears of pay in the revised scale of pay and including the pensionary benefits and any further or other orders as this Hon'ble Court may



deem fit.

For Petitioner : Mr.N.Sampath

For R1 to R4 : Mr.K.H.Ravikumar,
Government Advocate

For R5 : No appearance

ORDER

The petitioner herein was initially appointed as part-time Librarian in Raja Higher Secondary School, Thanjavur through proceedings bearing Na.Ka.No.4497/81 Sath.A dated 01.10.1981 and she served as such till the date of attaining the age of superannuation on 31.12.2012. Just before the date of superannuation, the petitioner claimed to have submitted a representation dated 12.10.2012 to regularize the services of the petitioner from the date of initial appointment with all backwages and all consequential service benefits including the arrears of pay and pensionary benefits. But there is no material to show that the petitioner submitted any such representation. However, she retired from service, she submitted representation dated 29.01.2013 for the above said reliefs. Thereafter, complaining the inaction on the said representation, the petitioner approached this Court by filing W.P.No.35176 of 2012 and this court by an order dated 27.12.2012 directed the respondents therein to consider the said representation and to pass appropriate orders. Thereafter, the claim of the petitioner was considered and an order was passed



in Letter No.3519/PK6(2)/2013-2 dated 17.06.2013, rejecting the claim of the petitioner for regularization on the ground that the orders issued by the Government in G.O (Ms) No.22, P&AR Department dated 28.02.2006 is applicable only to the Government Departments and not to the petitioner, who is working in an Aided School on part-time basis. It is aggrieved by the said order dated 17.06.2013, the petitioner approached this Court in the year 2017 by filing the present Writ Petition.

2. The learned counsel for the petitioner contended that the School in which the petitioner is working is being administered by the respondent no.4 herein and the Tahsildar concerned and therefore, the same is to be treated as Government School and the petitioner is entitled for regularization of her services in terms of G.O (Ms) No.22, P&AR Department dated 28.02.2006. He also further contended that though the petitioner was initially appointed as part-time Librarian, she worked as a full-time employee and discharged other duties including the duties of the Librarian from time to time and therefore, she is entitled to be treated as full-time employee and entitled for regularization in terms of G.O (Ms) No.22, P&AR Department dated 28.02.2006.



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3. The respondent no.3 filed a counter-affidavit contending that the School in which the petitioner was appointed is an Aided School, governed by the provisions of the Tamil Nadu Recognized Private Schools (Regulations) Act, 1973 (Tamil Nadu Act 29 of 1974) and in terms of the said Act, the Aid is being released from time to time in respect of the Aided posts and the same is not a Government School and therefore, the provisions of G.O (Ms) No.22, P&AR Department dated 28.02.2006 have no application for considering the case of the petitioner for regularization. It is also further contended that the petitioner was appointed as part-time Librarian and she continued as such and therefore, the benefit of G.O (Ms) No.22, P&AR Department dated 28.02.2006 is not available to part-time employees.

4. Though elaborate submissions have been made by learned counsel for the petitioner, this Court does not deem it necessary to deal with all such aspects in the context of the fact that in the affidavit filed in respect of the Writ Petition itself, it is categorically stated that the petitioner was initially appointed as a part-time Librarian and she continued as such till the date of filing of the Writ Petition for about 31 years and the G.O (Ms) No.22, P&AR Department dated 28.02.2006 has no application to the part-time employees.



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5. In this connection, it is relevant to refer to the decisions relied by the learned Government Advocate in C.A.No.3770 of 2017 passed by the Hon'ble Apex Court wherein the Hon'ble Apex Court categorically declared that the benefit of G.O (Ms) No.22, P&AR Department dated 28.02.2006 is applicable only to the full-time daily wage employees, who had completed 10 years of continuous service as on 01.01.2016 and not to the part-time employees. The relevant paragraphs from the said decision reads as under:-

“ 18. It is pertinent to note that even the regularisation of services of part-time employees vide G.O.(Rt.) No.505 Finance (AA-2) Department dated 14.10.2009 and G.O.(2D) No.32 Finance (T.A. 2)Department dated 26.03.2010 was effected by extending the benefit of G.O. dated 28.02.2006 only from the date of Government Orders and not from the date of completion of their ten years of service. The Division Bench also failed to take note that G.O.Ms.No. 22 P &AR Dept. dated 28.02.2006 is applicable only to full-time daily wage employees and who had completed ten years of continuous service as on 01.01.2006 and not to part-time employees. As per G.O.(Rt.) No.84 dated 18.06.2012, the respondent is entitled to the monetary benefits only from the date of issuance of Government Order regularizing his service that is 18.06.2012. The impugned order of the Division Bench affirming the order of the Single Judge granting benefits to the respondent from the date of completion of ten years of service is erroneous and the same is liable to be set aside.

6. Further, there is no material that is placed before this Court to show



that the School in which the petitioner is working is taken over by the Government and being run as a Government School in order to claim benefit under G.O (Ms) No.22, P&AR Department dated 28.02.2006.

7. On the other hand, as against the specific averment made in the counter-affidavit filed by the respondent No.3 contending that the School in which the petitioner is working is governed by the provisions of the Tamil Nadu Recognized Private Schools (Regulations) Act, 1973 (Tamil Nadu Act 29 of 1974), there is no material placed before this Court to contradict the said averment.

8. For the above two reasons, the question of extending the benefit under G.O (Ms) No.22, P&AR Department dated 28.02.2006 to the case of the petitioner does not arise and this Court does not find any error in the impugned order passed by the respondents.

9. Coming to the contentions raised by the learned counsel for the petitioner by placing reliance on a decision of a learned Single Judge of this Court in W.P.No.12308 of 2005, which is also stated to have been confirmed in W.A.No.598 of 2011 is concerned, the said case is not pertaining to the



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employees working in the School in question, but the same pertains to an employee working in Raja Chatram Administration. Therefore, the question of petitioner comparing herself to the petitioner in the abovesaid case does not arise. Even otherwise, the claim of the petitioner in the entire Writ Petition is only basing upon the Government Order in G.O (Ms) No.22, P&AR Department dated 28.02.2006 and this Court has already come to an conclusion that the said G.O (Ms) No.22, P&AR Department dated 28.02.2006 has no application to the employees working in a Private-Aided School and also to the part-time employees.

10. In the light of the above, this Court is of the considered view that the petitioner is not entitled for any relief in the Writ Petition and the same is accordingly dismissed. No costs. Connected Miscellaneous Petitions, if any shall stand closed.

11.06.2024

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



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