



WP(MD) No.3058 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.02.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE SATHI KUMAR SUKUMARA KURUP**

W.P.(MD) No.3058 of 2024

A.Chokkalingam

... Petitioner

/vs./

1.The Deputy Inspector General of Police,
Tirunelveli,
Tirunelveli District.

2.The Superintendent of Police,
Nagercoil,
Kanniyakumari District.

3.The Deputy Superintendent of Police (Law and Order),
Nagercoil,
Kanniyakumari District.

4.The Inspector of Police,
Kottar Police Station,
Nagercoil,
Kanniyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st Respondent to permit the



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Petitioner to conduct the Hunger Strike before the office of the 2nd respondent with adequate Police Protection on 14.02.2024 or any other convenient date by considering the Petitioner's representation dated 27.01.2024.

For Petitioner : Mr.R.Maheswaran

For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

The submission of the learned Counsel for the Petitioner is that the Petitioner belongs to SC community. He was appointed as part time sweeper in a Government school in Kanniyakumari District. The said post was sanctioned post. Though the nomenclature of the said post is part time work, the nature of work is that of full time employer. The Petitioner discharged his duties effectively. The monthly salary was fixed at Rs.105/-. Many persons, like the Petitioner worked in Kanniyakumari District.

2.The Government of Tamil Nadu passed G.O.Ms.No.22, Personal and Administrative Reforms (F) Department, dated 28.02.2006, to regularize the services of the daily wages employee of all Government Department, who acquire



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10 years of service as on 01.01.2006. The Government of Tamil Nadu also issued G.O.Ms.No.111, School and Education Department.

3.As per G.O.Ms.No.111, School and Education Department, the Government identified 635 part time sweepers for regularization of their services. Thereafter, several Writ Petitions were filed before this Court for regularizing the service of similarly placed persons, who had put in 10 years of service. This Court had in several cases ordered to regularize the services of the similarly placed persons and had directed 50% of the same shall be reckoned for the purpose of computing the length of service and for calculating the pension. The question, whether the part time employees are entitled to the benefit under G.O.Ms.No.22, was considered by the Division Bench of this Court in W.A.(MD) Nos.93 and 214 of 2018 dated 27.03.2018, where the learned Judges had held that the part time employees are entitled to the relief of G.O.Ms.No.22 as long as they were appointed in sanctioned post and directed to disburse the pensionary benefits.

4.Against the said judgment, the Government preferred Review Application before this Court. The same was also dismissed. Thereafter, the Government had



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WEB COPY preferred a Special Leave Petition (Civil) Diary No.34957 of 2022 before the Hon'ble Supreme Court, which was also dismissed. However, the Chief Educational Officer, Nagercoil, is not taking any steps to redress the grievance of the Petitioner and other similarly placed persons over several representations. Therefore, the Petitioner and other similarly placed persons find it difficult to manage both their ends. They are financially put to stake. Left with no other alternative, the Petitioner had filed this Writ Petition seeking permission to conduct hunger strike for the redressal of his grievance.

5.Right to strike is a fundamental right. The legal rights of the Petitioner and other similarly placed individuals are infringed. Therefore, the Petitioner seeks permission to conduct hunger strike. On 25.01.2023, the Petitioner along with 14 other persons had sent a representation to the Commissioner of Chennai seeking permission to conduct hunger strike on 19.02.2023 at 10.00 am., before the Directorate of School Education at Directorate of Public Instruction Campus, Chennai.



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6.As per the order of this Court, the Petitioner and the similarly placed persons had conducted hunger strike before the Directorate of School Education at Directorate of Public Instruction Campus, Chennai. During the hunger strike, the Secretary to Government called the Petitioner and the similarly placed persons and assured that orders will be passed for regularizing the persons, who had filed Writ Petitions. Thereafter, there were repeated requests with the Officials. Nothing had happened. The Government have identified 614 part time sweepers as per G.O.Ms.No.111. The Education Department is repeatedly suppressing the list. On one occasion, this Court had directed the Officials to furnish the list. Even thereafter, the Education Department Chennai neither regularizing the Petitioner and the similarly placed persons nor furnishing the list. Therefore, the Petitioner was forced to prefer a complaint with the Respondents.

7.The third Respondent had directed the Chief Educational Officer, Nagercoil, to give the list of 614 persons, which is in annexure of G.O.Ms.No. 111. Thereafter, the second Respondent once again directed the Chief Educational Officer, Nagercoil, by his proceedings dated 14.12.2023 in Na.Ka.No. 552/Thu.Ka.Ka(Na)/Campus/2023. The Chief Educational Officer, Nagercoil, had



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not circulated the list of 614 persons as per G.O.Ms.No.111. The Petitioner and the similarly placed persons are now in their old age. Therefore, the Petitioner and the similarly placed persons had given a representation to the Respondents seeking permission to hold hunger strike, based on the representation of the Petitioner dated 27.01.2024. The Respondents had been protracting to grant the permission to conduct hunger strike to redress the grievance of the Petitioner and other similarly placed persons in a democratic manner in spite of repeated requests. Therefore, he seeks directions against the Respondents.

8.The submission of the learned Counsel for the Petitioner cannot at all be considered by this Court, as it is found that the Petitioner had been appointed based on the outdated Government Order. Subsequently, the Government on considering the pathetic situation made them permanent by raising their salary. Instead of following the order in their favour through this Court by filing contempt petition for violation of the Writ Order, the Petitioner is seeking to convert the civil matter into a criminal case, which is a waste of time of this Court and the public Officials and is attempting to create law and order problem by sitting in hunger strike. When there is already an order in favour of the Petitioner,



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it is open to the Petitioner to approach the Court for violation of Court orders.

Instead, he had filed this Writ Petition, as though no relief had been granted, thereby ignoring the contempt of Court by the earlier order of the Writ Court. This Petition is misconceived.

Accordingly, this Writ Petition is dismissed. No costs.

13.02.2024

Index : Yes / No
Internet : Yes / No
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TO:

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Nagercoil,
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SATHI KUMAR SUKUMARA KURUP, J.

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Order made in
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