



W.P.No.32600 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 01.09.2025

Coram:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.32600 of 2025

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D.Jayaraj  
Sweeper,  
Government Higher Secondary School,  
Gingee, Latheri (via) Vellore District.  
Vs.

.. Petitioner

1. The Secretary to the Government,  
Education Department,  
Fort St.George,  
Secretariat, Chennai-600 009.
2. The Director of School Education,  
College Road, Chennai-600 006.
3. The Chief Educational Officer,  
Vellore District.
4. The District Educational Officer, Vellore.
5. The Headmaster,  
Government Higher Secondary School,  
Genjee, Latheri (via)  
Vellore District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India,

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praying for issuance of a Writ of Mandamus to direct the respondents 1 to 4 herein to regularise the service of the petitioner as a full time Sweeper on completion of 10 years (i.e) 17.10.2008 with all consequential monetary service and attendant benefits flowing thereof, by considering the representation of the petitioner, dated 27.01.2025 in the light of the decision rendered by the Honourable Full Bench of this Court in M.Sivappa Vs. The State of Tamil Nadu, in W.P.No.23823 of 2023, dated 26.02.2024 within a time frame to be fixed by this Court.

For petitioner : Mr.S.N.Ravichandran

For respondents : Ms.S.Mythreye Chandra, Spl.G.P.

### ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents 1 to 4 herein to regularise the service of the petitioner as a full time Sweeper on completion of 10 years of service, (i.e) 17.10.2008, with all consequential monetary service and attendant benefits flowing thereof, by considering the representation of the petitioner, dated 27.01.2025 in the light of the decision rendered by the Honourable Full Bench of this Court in M.Sivappa Vs. The State of Tamil Nadu, in W.P.No.23823 of 2023, dated 26.02.2024 within a time frame to be fixed by this Court.

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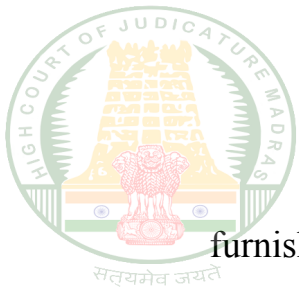
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2. The petitioner was appointed as part time Sweeper through Employment Exchange and posted at Government Higher Secondary School, Gingee, by order dated 17.10.1998 passed by the Headmaster and his appointment was made against the sanctioned post, caused on account of retirement of the earlier incumbent. On the date of appointment, 1400 students (approximately) studied from 6th to 12th Standards with 35 teaching and non-teaching staffs working in the school. Though the petitioner was appointed as part time Sweeper, he discharged his duties from 6 am to 4.30 p.m. as a full time employee. The Government issued G.O.Ms.No.241, Personnel and Administrative Department, dated 18.04.1988 and G.O.Ms.No.528, dated 10.10.1998 regularising the service of basic servants appointed in the regular vacancy. Further, the second respondent, vide proceedings in Na.Ka.No.51827/R8, dated 19.05.2001, directed all the Chief Educational Officers and District Educational Officers to furnish the list of part time employees appointed against the sanctioned vacancies, recruited through Employment Exchange for the purpose of regularisation.

3. Pursuant to the above proceedings, the fifth respondent-Headmaster

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furnished the particulars of the petitioner to the third respondent for regularisation. Based on the aforesaid G.O., part time basic servant appointed in the regular post through Employment Exchange, were regularised from the date of their initial appointment. However, the petitioner alone was left out and denied the order of regularisation.

4. Further, one M.Kumar, part time Sweeper filed a writ petition for regularisation of his part time post to full time post with scale of pay. The said writ petition was allowed by this Court, which was also confirmed in Writ Appeal No.230 of 2009 by judgment dated 03.08.2009. The Special Leave Petition filed by the Government in S.L.P.(Civil).No.1997 of 2009 was dismissed by the Honourable Supreme Court on 01.02.2010. The said order was complied with by the Government in G.O.Ms.No.141, dated 19.05.2010, regularising the service of Mr.M.Kannan as a full time Sweeper in the time scale of pay.

5. The Government issued G.O.Ms.No.22, dated 28.02.2006 directing to regularise the daily wage employees who have rendered 10 years of service as on 01.01.2006. Pursuant to the order of the Court in W.P.No.9412 of 2010 dated 23.10.2010, the Government regularised around 618 part time



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employees by issuing G.O.Ms.No.111, dated 09.05.2012 as full time Sweeper/Scavenger/Night watchman in the time scale of pay and the petitioner was also discriminated. Hence, the petitioner made a representation to the respondents requesting for regularisation as per G.O.Ms.No.22. The respondents failed to consider the representation of the petitioner for regularisation and hence, he filed W.P.No.14164 of 2013, seeking for direction. In the meanwhile, the Government issued G.O.Ms.No.74, dated 27.06.2016 contending that part time casual employees are not entitle for regularisation on completion of ten years as on 01.01.2006. By common order dated 22.08.2014, the Court dismissed the batch of cases holding that the order in G.O.Ms.No.74, Personnel and Administrative Department, dated 27.06.2013, had denied the benefit of regularisation.

6. Due to conflict of verdicts of the coordinate Bench, the issue of regularisation of employees as per G.O.No.74, dated 27.06.2013 was referred to a larger Bench of this Court. A Full Bench was constituted to answer the reference. By order dated 26.02.2024, the Full Bench of this Court laid down the law stating as follows in paragraph 38:

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"38. In fine, we hold:

(a) If it shown that the appointment is made to anyone of the 86 categories of posts enumerated in the Tamil Nadu Basic Service immaterial of the fact that whether such appointment is part-time of full-time, the employment would be entitled to the benefit of regularisation de-hors G.O.Ms.No.74, dated 27.06.2013."

7. Pursuant to the above judgment of the Full Bench, the Writ Court allowed the Writ Petition on 19.07.2024 in W.P.No.23823 of 2023 and the operative portion of this order is as follows:

"7. In the view of the above discussion, the order impugned cannot be sustained and liable to be quashed. Accordingly, the impugned order dated 04.12.2020 passed by the third respondent in Na.Ka.No.28224/2020/M3, is hereby quashed. The respondents are directed to regularise the service of the petitioner from the date of his initial appointment with all service benefits, within the period of four weeks from the date of receipt of a copy of this order."



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8. The petitioner was appointed as Sweeper (part time) in the retirement vacancy through Employment Exchange by order dated 17.10.1998 by the Headmaster, against the sanctioned vacancy. Similarly appointed employees along with the petitioner, were regularised and the petitioner alone was discriminated and till date, the petitioner is working. Hence, the petitioner made a representation dated 27.01.2025 to the respondents requesting for regularisation, in the light of G.O.Ms.No.528, dated 10.10.1998 and on the basis of the Full Bench judgment stated above. But the respondents have not considered the claim of the petitioner and hence, the petitioner filed the present Writ Petition seeking for the above relief.

9. Considering the facts and circumstances of the case, the respondents are directed to consider the said representation of the petitioner, dated 27.01.2025 and pass orders on the same on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order.

10. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs.

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To

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