



W.P.(MD)No.9091 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.04.2025

WEB COPY

CORAM

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.9091 of 2019

K.Veerammal

... Petitioner

Vs.

1.The Government of Tamil Nadu
Rep by its Secretary,
Department of School Education,
Fort St.George, Chennai-600 009.

2.The Director of School Education,
Office of the Director of School Education,
College Road, Chennai-600 006.

3.The District Educational Officer,
O/o. The District Educational Officer,
Sankarankovil, Tirunelveli District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.4280/A4/2018 dated 10.12.2018 on the file of the third respondent and quash the same as illegal and consequently for a direction directing the respondents to provide all service benefits of the petitioner's husband including Gratuity, pension by way of regularizing the service of the petitioner's husband in the post of Sweeper within the time stipulated by this Court.



WEB COPY



W.P.(MD)No.9091 of 2019

For Petitioner : Mr.S.Rajasekar,
M/s.T.Lajapathi Roy & Associates.

For Respondents : Mr.K.R.Baturus Zaman,
Government Advocate.

ORDER

Under assail is the order dated 10.12.2018 passed by the District Educational Officer, Tirunelveli.

2.The case of the petitioner is that her husband was appointed as Sweeper on consolidated pay and posted at Government Higher Secondary School, Periykovilangulam, Sankarankovil. At the time of appointment, her husband was received Rs.60/- per month. Her husband was continuously worked as part time sweeper from 14.09.1984. The Government has issued order GO.Ms.No.528 dated 10.10.1988 directing to appoint in the regular time scale of pay. On the basis of the above Government Order, her husband was waiting for appointment. The Government imposed ban for appointment. It was clarified that the above said Government Order is not applicable to the basic service posts. The Government has issued another order in G.O.(Ms)No.22, dated 28.02.2006 directing the authority concerned to regularize the persons,



W.P.(MD)No.9091 of 2019

who are working in the respective department for more than 10 years, but, even after, all these years, her husband was not regularized in his service. She made a representation dated 14.06.2018 to regularize her husband's service. But no action was taken. Thereafter, she made representation dated 25.06.2018 and this Court on 04.07.2018 was pleased to direct the officials to consider her representation. Thereafter, the third respondent has issued the order impugned rejecting her request. Hence, this writ petition.

3.The learned counsel appearing for the petitioner would submit that the petitioner's husband was working as Sweeper from 14.09.1984 to 20.08.1997 for nearly 13 years and he was eligible for pension benefit, more particularly, his name was found in the list maintained by the Education Department for granting regularization. He would submit that as per the law laid down by the Hon'ble Full Bench of this Court in a judgment reported in 2024 (2) CTC 1 in M.Sivappa Vs. State of Tamilnadu and Ors. wherein it has been held that wherever the posts are permanent in nature and they come within 86 categories of posts which form the Tamil Nadu Basic Service, temporary or part-time employment and who have completed 10 years of service as on 28.02.2006 would be entitled to regularization de hors the nomenclature that was given to the



W.P.(MD)No.9091 of 2019

appointment. To strengthen his contention, he has relied upon the decision of this Court in W.P.(MD)No.3303 of 2017 dated 04.12.2024.

4.Per contra, the learned Government Advocate appearing for the respondents would submit that the petitioner's husband late Kadarkarai served as purely as part time sweeper and he was not appointed in a regular and sanctioned post. While he was working as part time, he died on 20.08.1997. Hence, the petitioner has no locus-standi to seek pensionary benefits on behalf of her husband, that too, after lapse of 21 years and odd.

5.This Court has considered the submissions made on either side and perused the counter and available records.

6.It is not in dispute that the petitioner's husband one Mr.Kadarkarai was sponsored by the employment exchange for the post of Sweeper on consolidated pay. Accordingly, he was appointed as Sweeper on the consolidated pay and posted at Government Higher Secondary School, Periyakovilankulam, Sankarankovil Taluk, Tirunelveli District. It is seen from typed-set of papers in page No.5, the District Educational Officer, Tirunelveli has prepared a seniority list on 06.08.1990 to regularize the service of the part time employees and in



W.P.(MD)No.9091 of 2019

that list writ petitioner's husband's name placed in serial No.8. But in the meanwhile, her husband died on 20.08.1997. It is seen from the records that the petitioner has filed W.P.(MD)No.14260 of 2018 seeking the relief of directing the respondents to regularize the service of the petitioner's husband in the post of part-time Sweeper to provide the retirement benefits and this Court vide order dated 04.07.2018, directed the District Educational Officer, Tirunelveli District to consider the request of the petitioner dated 25.06.2018 on merits and in accordance with law and take a decision thereon, taking into account the long standing service rendered by the petitioner's husband.

7.The Hon'ble Full Bench of this Court, in a case of ***M.Sivappa Vs. State of Tamilnadu and Ors*** reported in ***2024 (2) CTC 1*** has held as follows:-

“29. The Chief Secretary in his affidavit filed on 12.01.2024, pursuant to the directions issued by us, has taken care to point out that deployment of persons in various Government schemes on a temporary basis, cannot be avoided. While we agree with the said claim of the Government, what we are unable to digest is employment of persons on a temporary basis or on a part-time basis



WEB COPY



W.P.(MD)No.9091 of 2019

even in posts which are permanent and are covered by the Special Rules for Tamil Nadu Basic service. The practice of employing persons on a temporary basis to permanent posts also is not a healthy practice. We must point out at this juncture that there is a provision for temporary appointment under the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, Section 17 of the said Enactment provides for making of temporary appointments in public interest in case of emergencies. The said enactment would apply only to the State and Subordinate Services and not to the basic service.

30. Even the Tamil Nadu State and Subordinate Service Rules provides for temporary appointment under Rule 10(a)(i). Such enabling provision is conspicuously absent in the Special Rules relating to Tamil Nadu Basic Service. Such absence by itself would show that these posts which are covered by the Special Rules for Tamil Nadu Basic Service are permanent in nature and since the recruitment does not involve a complicated procedure as is done for the higher post, temporary appointments due to exigencies was not contemplated.

37. We are of the considered opinion that wherever the posts are permanent in nature and they come within 86 categories of posts which form the Tamil Nadu Basic Service, temporary or part-time employment should be avoided and those persons, who have been appointed to



WEB COPY



W.P.(MD)No.9091 of 2019

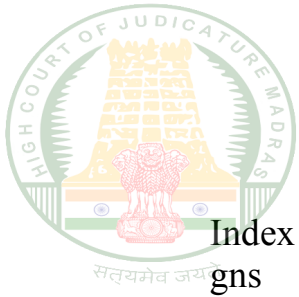
such posts and who have completed 10 years of service as on 28.02.2006 would be entitled to regularisation dehors the nomenclature that is given to the appointment.”

8.In the light of the law laid down by the Hon'ble Full Bench of this Court although the petitioner's husband's appointment as part time sweeper in the Government Higher Secondary School, his service falls within one of 86 categories of posts under the Tamil Nadu Basic Service, since the petitioner's husband had completed service from 14.09.1984 to 20.08.1997 for 11 years. In view of the same, the order impugned cannot be sustained and the same is liable to be quashed. Accordingly, the order impugned passed by the third respondent dated 10.12.2018 is hereby quashed. The respondents are directed to regularize the petitioner's husband's service from 14.09.1984 to 20.08.1997, for providing pension benefits, within a period of twelve weeks from the date of receipt of a copy of this order.

9.In the result, this writ petition is allowed. No costs.

22.04.2025

NCC : Yes / No



W.P.(MD)No.9091 of 2019

Index : Yes / No
gns

WEB COPY
To

- 1.The Secretary,
Department of School Education,
Fort St.George,
Chennai-600 009.
- 2.The Director of School Education,
Office of the Director of School Education,
College Road,
Chennai-600 006.
- 3.The District Educational Officer,
O/o. The District Educational Officer,
Sankarankovil,
Tirunelveli District.



WEB COPY



W.P.(MD)No.9091 of 2019

M.JOTHIRAMAN, J.

gns

W.P.(MD)No.9091 of 2019

22.04.2025