

(2011) 07 MAD CK 0118

In the Madras High Court

Case No : Writ Petition No. 6401 of 2011 and M.P. No. 1 of 2011

S. Saraswathi

APPELLANT

Vs

Government of Tamil Nadu

RESPONDENT

Date of Decision : 25-07-2011

Acts Referred:

Citation : (2011) 07 MAD CK 0118

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : S. Mani, for the Appellant; P. Karthikeyan, for the Respondent

Final Decision : Allowed

Judgement

D. Hariparanthaman, J.—The Petitioner was appointed as part time Sweeper through Employment Exchange on 05.04.1988 in Government

Higher Secondary School, Kalakkadu in Tirunelveli District. The 3rd Respondent herein absorbed the Petitioner as full time Sweeper on

temporary basis by invoking the Tamil Nadu Basic Service Rules. She was granted time scale of pay by an order dated 26.04.1990 of the 3rd

Respondent. Since she was not regularised in service, she was not granted other monetary benefits such as annual increment, leave benefits,

selection grade, special grade, etc.

2. The Government issued G.O.(1D). No. 188, School Education (R1) Department dated 27.09.2001 regularising the services of 34 Sweepers,

Watchmen and Watermen with effect from their date of appointment. Those 34 persons are similarly placed like the Petitioner. The name of the

Petitioner was omitted in the said Government Order. It is stated that it was a mistake.

3. The Petitioner filed O.A. No. 104 of 2003 before the Tamil Nadu Administrative Tribunal praying for a direction to the Respondents to

consider her claim for regularisation. The Tribunal directed the Respondents to consider the Petitioner's claim for regularisation without specifying

any time limit for the same. Since no order was passed pursuant to the order of the Tribunal, the Petitioner filed a W.P. No. 17390 of 2010

seeking for a direction to regularise the services of the Petitioner. This Court passed an order dated 04.08.2010 directing the 1st Respondent

herein to pass orders in accordance with the order dated 09.01.2003 of the Tribunal in O.A. No. 104 of 2003, within a period of twelve weeks.

4. In these circumstances, the 1st Respondent passed G.O.(Ms). No. 324, School Education (R1) Department dated 28.12.2010 regularising the

services of the Petitioner with effect from 29.01.1991, but restricting the monetary benefits from the date of issuance of the Government Order.

The Petitioner is deprived of the monetary benefits for the past 19 years. The present writ petition is filed to quash the G.O.(Ms). No. 324, School

Education (R1) Department dated 28.12.2010 in so far as it deprived monetary benefits from 29.01.1991 till date of issuance of the

Government Order.

5. The Respondents have not filed counter affidavit. However, the learned Government Advocate has argued based on the instructions. It is

submitted that the Petitioner is granted regularisation with effect from 29.01.1991 and therefore, the Petitioner could have no grievance.

6. The issue that arises for consideration is as to whether the Petitioner is illegally deprived of the monetary benefits from 29.01.1991 by the

impugned Government Order. The Petitioner was recruited through Employment Exchange on 05.04.1988 as part time Sweeper. She was granted

time scale pay by an order dated 26.04.1990. Though she was granted time scale, she was not granted other monetary benefits and she was also

not regularised.

7. Other persons who were similarly placed like the Petitioner were regularised by the 1st Respondent in G.O.(1D). No. 188, School Education

(R1) Department dated 27.09.2001 34 persons like the Petitioner were regularised by the said G.O. No. 188 with effect from the date of their 5

appointment. The said G.O. is enclosed at Page-4 of the typed set of papers.

Thus the persons already joined in various Schools around the same time when the Petitioner was granted time scale of pay, were regularised with effect from the date of their appointment and they were granted all monetary benefits.

8. Since the Petitioner alone is omitted, now the Government issued the impugned G.O.(Ms).324, School Education (R1) Department dated 28.12.2010 and regularised the services of the Petitioner with effect from 29.01.1991, however, the 1st Respondent declined to grant the monetary benefits from 29.01.1991 to 28.12.2010 the date of issuance of the Government Order. In the similar circumstances, this Court directed monetary benefits from the date of regularisation in the following judgments:

(i) W.P. No. 9517 of 2005 [Tmt. Anandha Venkataramani V. State of Tamil Nadu, rep by its Secretary to Government, Social Welfare &

Nutritious Meal Programme Department, Fort St. George, Chennai-9]

(ii)W.P. No. 27980 of 2005 & W.P.M.P. No. 8309 of 2006 [A. Mary Victoria v. State of Tamil 6 Nadu, rep by its Secretary to Government,

Social Welfare & Nutritious Meal Programme Department, Secretariat, Chennai-9 and another]

(iii)W.P. No. 28263 of 2006 [P. Ganapathy v. The Government of Tamil Nadu rep by the Secretary to the Government, Revenue Department,

Fort St. George, Madras-600 009 and another]

(iv)W.P. No. 15469 of 2008 & M.P. No. 2 of 2008 [G. Duraisamy and Ors. v. Director of School Education, Chennai-6 and another]

(v)W.P. No. 13241 of 2007 [Angeline Arokiamary v. The Government of Tamil Nadu rep by the Secretary to Government Adhi Dravidar and

Tribal Welfare Department, Fort St. George, Chennai-9 and 4 others]

9. In view of the aforesaid judgments and also that there is no reason for denying the monetary benefits to the Petitioner from 29.01.1991, I am inclined to quash the G.O., in so far as it deprives monetary benefits to the Petitioner with effect from 29.01.1991.

10. Accordingly, the writ petition is allowed as prayed for. The impugned order is quashed in so far as it deprives monetary benefits from

29.01.1991. The 1st Respondent is directed to grant the monetary benefits from 29.01.1991 as given to others within a period of eight weeks

from the date of receipt of the copy of this order. The writ petition is ordered in the above terms. Consequently, the connected miscellaneous petition is closed. No costs.