

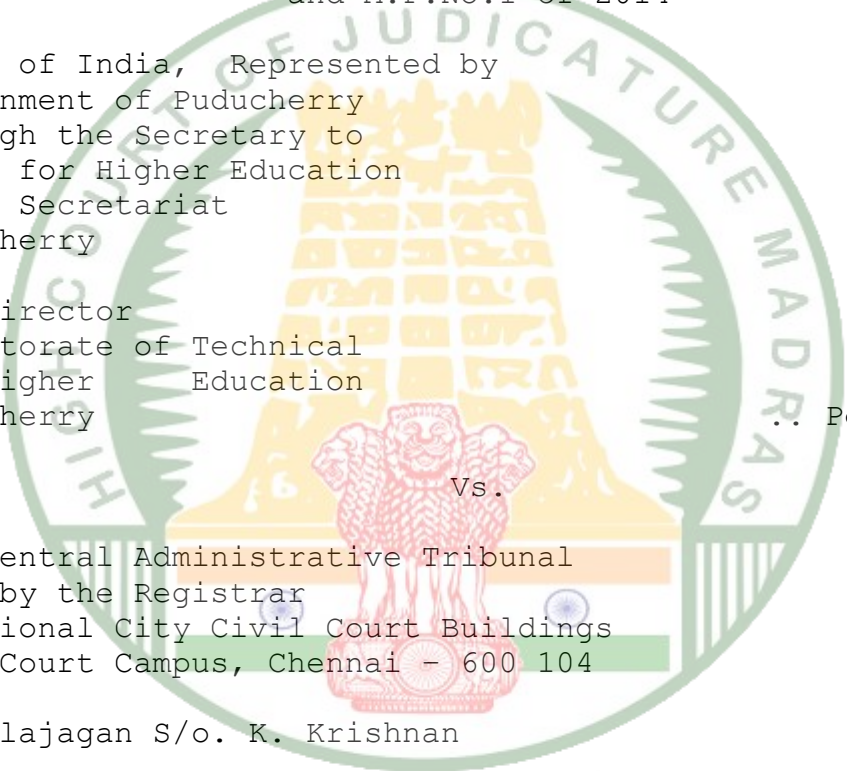
IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 09-09-2016
PRONOUNCED ON: 27-09-2016

CORAM:

THE HON'BLE MR.JUSTICE A.SELVAM
AND
THE HON'BLE MR.JUSTICE P.KALAIYARASAN

Writ Petition No.30904 of 2014
and M.P.No.1 of 2014

- 
1. Union of India, Represented by
Government of Puducherry
Through the Secretary to
Govt. for Higher Education
Chief Secretariat
Puducherry
2. The Director
Directorate of Technical
and Higher Education
Puducherry
- ... Petitioners
- Vs.
1. The Central Administrative Tribunal
rep. by the Registrar
Additional City Civil Court Buildings
High Court Campus, Chennai - 600 104
2. K. Velajagan S/o. K. Krishnan
3. P. Philomen D Anandaraaj
4. R. Jivanandham S/o. P. Ramachandran
5. The Secretary
Union Public Service Commission
New Delhi
- ... Respondents
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Writ Petition filed under Article 226 of the Constitution of India
praying for a Writ of Certiorari calling for the records relating to
the order of the Central Administrative Tribunal, Madras Bench passed
in O.A.No.420 of 2012, dated 03-04-2013 and quash the same and pass
further orders.

For petitioner : Mr. R. Syed Mustafa, Govt. Pleader
(Pondicherry)

For Respondents : Mr. V. Ajayakumar for RR2 to 4
Mr. M. Devendran, Standing counsel for R5
R1 - Tribunal

ORDER

(Order of the Court was delivered by A.SELVAM, J.)

This writ petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the Order dated 03-04-2013 passed in O.A.No.420 of 2012 by the Central Administrative Tribunal, Madras Bench and quash the same.

2. The respondents 2 to 4 as applicants have filed O.A.No.420 of 2012 on the file of the Central Administrative Tribunal, Madras Bench wherein the present petitioners and the fifth respondent have been shown as respondents.

3. It is averred in the Original Application, that the applicants have been appointed as Lecturers on consolidated pay on hourly basis during 2005. The applicants have possessed required qualifications and all of them have been appointed through selection process. The appointments of the applicants have been accorded by the Lt. Governor by proceedings dated 12-08-2005. The hourly based Lecturers in the Government of Arts and Science Colleges have approached the Tribunal in a batch of applications to recognize their services and the same have been dismissed. Against the dismissal orders, various writ petitions have been filed before the Division Bench of High Court of Madras, wherein a specific direction has been given to the Government as well as UPSC to regularize their services. On the basis of the order passed by the Division Bench of Madras High Court, several Lecturers have approached and similar orders have been passed. Under the said circumstances, this application has been filed for getting the relief sought therein.

4. On the side of the respondents 1 and 2, a counter has been filed wherein it is averred that the orders passed in respect of Lecturers who are working in Arts and Science Colleges are not applicable to the applicants. Since the applicants are working in Polytechnic and they are being covered by AICTE Rules and Regulations, the applicants have not been appointed as per Recruitment Rules and therefore, the present application deserves to be dismissed.

5. On the basis of the divergent contentions raised on either side, the Central Administrative Tribunal, Madras Bench has allowed the Original Application to an extent that the respondents should regularise the services of the applicants from the date of their initial appointments without any benefit of seniority, over and above the direct recruits who have been appointed through UPSC. Further, the applicants are entitled to get monetary benefits. The order passed by the Central Administrative Tribunal is being challenged in the present writ petition.

6. The learned counsel appearing for the writ petitioners has repeatedly contended that the respondents 2 to 4 have not been appointed as per Rules and Regulations and further, the regularisation given to Lecturers who are working in Arts and Science Colleges is not applicable to the case of the respondents 2 to 4 and further, the Division Bench of this Court has passed such kind of orders so as to regularise the Lecturers, who are working in Arts and Science Colleges as one time measure and the decision passed by the Division Bench of this Court is not applicable to the facts and circumstances of this case and the Central Administrative Tribunal, Madras Bench without considering the contentions put forth on the side of the writ petitioners has erroneously allowed O.A.No.20 of 2012 and therefore, the impugned order passed by the Central Administrative Tribunal, Madras Bench is liable to be quashed.

7. Per contra, the learned counsel appearing for the respondents 2 to 4/applicants has contended that the Division Bench of this Court has categorically held that even if an appointment is made temporarily or on adhoc basis, the concerned service has to be regularised and further, various decisions have been rendered by this Court and the Central Administrative Tribunal after considering the various decisions of this Court has rightly allowed O.A.No.420 of 2012 by way of passing the impugned order and therefore, the impugned order passed by the Central Administrative Tribunal does not call for any interference.

8. For considering the rival submissions made on either side, the Court has to look into the following decisions:

(i) In 2008 (WLR) 872 (S. Srinivasan Vs. Union of India), the Division Bench of this Court has held that since the petitioners are working for the last 25 years or so without any benefit when compared to other similarly situated persons, the prayer for applicants to regularise their services deserves to be allowed.

(ii) In W.P.Nos.7672 and 7673 of 2014, the Division Bench of this Court has held that since the concerned appointment has been made on contractual basis without following Recruitment Rules contract employees have no right to claim regularisation.

9. The entire argument put forth on the side of the writ petitioners is only based upon the common order passed in W.P.Nos.7672 and 7673 of 2014. But the said order has been stayed by the Honourable Supreme Court in Special Leave to Appeal (C) Nos.8702 to 8703 of 2015.

10. It is seen from the decisions referred to supra that the appointment in question is purely on contractual basis. But the appointments of the respondents 2 to 4/applicants have not been made on contractual basis and they have been recruited on hourly basis and their appointments have been made in sanctioned posts and also approved by Lt. Governor of Puducherry.

11. Considering the fact that the appointments of the respondents 2 to 4/applicants are totally different from recruitment on contractual basis, this Court is of the view that the order passed by the Central Administrative Tribunal is perfectly correct and the same does not call for any interference. Further in various decisions of this Court, it has been specifically directed to regularise the services in question on the basis of the decision of Division Bench of this Court. Therefore, viewing from any angle, the contention put forth on the side of the writ petitioners cannot be accepted and altogether, the present writ petition deserves to be dismissed.

In fine, this writ petition is dismissed without costs. The order dated 03-04-2013 passed in O.A.No.420 of 2012 by the Central Administrative Tribunal, Madras Bench is confirmed. The connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

glp

To

1. Secretary to Union of India
Rep by Court of Puducherry
Govt. for Higher Education
Chief Secretariat
Puducherry

2. The Director
Directorate of Technical
and Higher Education
Puducherry

3. The Registrar
Central Administrative Tribunal
Chennai - 600 104.

+1cc to Mr.V. Ajayakumar , Advocate, S.R.No.55715

+1cc to Mr.M.Devendran, Advocate, S.R.No.55239

+1cc to the Government Pleader, S.R.No.55334

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and M.P.No.1 of 2014

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