IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 26.08.2016

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

WP.No.21142/2015 & MP.No.1/2015

1.R.Radha
2.S.Venkataraman
3.S.Abinaya
4.K.Sridevi
5.P.Ramadevi
6.D.Kalaiselvi
7.N.Sivagnanam
8.P.Vasukki
9.R.Alamelu
10.K.Shankara Gomathi
11.P.Lakshmanan
12.R.Geetha
13.K.Kowsalyarani
14.G.Leelavathy
15.V.Shobiya
16.S.Dhanalakshmi
17.S.Thangamani
18.K.Marudhavanan
19.K.Sureshkumar
20.Ikbal
21.Sivaranjani
22.M.Ananthi
23.G.Malarvizhi
24.B.Mini
25.P.Poongodi .. Petitioners

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Versus

1.The Secretary to Government
State of Tamil Nadu, Personnel
and Administrative Reforms Department
Secretariat, Fort St George
Chennai 600 001.

https://hcservices.ecourts.gov.in/hcservices/

2.The Secretary
Tamil Nadu Public Service Commission
[TNPSC], Chennai 600 002.

3.The Registrar General
High Court of Madras,
Chennai 600 104.

4.The Principal District Judge
Tiruppur District, Tiruppur. .. Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the respondents 1 to 4 herein to absorb the petitioners 1 to 25 as regular employee in their respective post with effect from joining service from 01.03.2013 without break in service by ousting for a day and entering into re-employment of service of fresh in every year, the service may be regularized by framing re-absorption rules or may permit the petitioners to writ special test, may conduct special recruitment through the 2nd respondent for absorption and regularization of service of the petitioners in the post being held by the petitioner under Class IV Category V of the Tamil Nadu Judicial Ministerial Service Rules.

For Petitioners: Mr.R.John Sathyan
For R1 : Mr.R.Govindasamy, Spl.GP
For R2 : Ms.C.N.G.Niraimathi
For RR 3 & 4 : Mr.V.Vijaysankar

ORDER'

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal.

2 The petitioners were selected for the post of Typist under Category - V Group-IV of the Tamil Nadu Judicial Ministerial Service on temporary basis vide various proceedings, which came to be passed in the year 2013 and the grievance of the petitioners appears to be on account of the regular selection made by the 2nd respondent / Tamil Nadu Public Service Commission, they are likely to be ousted and therefore, prays for appropriate orders for regularization of their service in the post being held by them under Class-IV Category-V of the Tamil Nadu Judicial Ministerial Service by filing the present writ petition.

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3 This Court heard the submissions of the learned counsel appearing for the petitioners ; Mr.R.Govindasamy, learned Special Government Pleader appearing for the 1st respondent ; Ms.C.N.G.Niraimathi, learned Standing Counsel appearing for the 2nd respondent ; and Mr.V.Vijaysankar, learned counsel appearing for the respondents 3 and 4.

4 Ms.C.N.G.Niraimathi, learned Standing Counsel appearing for the 2nd respondent [TNPSC] has invited the attention of this Court to the common order dated 27.11.2014 made in WP.No.3498/2013 etc., batch and would submit that admittedly, at the time of appointment, the petitioners were put on notice that their appointment is purely temporary and they should give a way to the regular appointees and the Division Bench of this Court, in the above said common order, has also held so and therefore, prays for dismissal of this writ petition.

5 This Court considered the rival submissions and also perused the materials placed before it.

6 It is relevant to extract paragraph 5 to 8 of the above cited common order dated 27.11.2014:-

> "....
>
> 5 We have examined the said submission. We are of the considered view that such a direction cannot be granted for more than one reason. Firstly, the petitioners, while working in the post on temporary basis, had an opportunity to participate in the examination conducted by the Public Service Commission for appointment in the said post. Some of the candidates had appeared for the examination and also come out successfully. The petitioners, it appears, have not participated in the selection process. Secondly, the petitioners, while accepting the appointment on temporary basis, were conscious of the fact that their appointment was only till regularly appointed incumbents are available. Thirdly, the petitioners' appointment was not in accordance with the Constitutional scheme of employment. Thus, it cannot be directed to conduct a separate examination for regularization of the present employees.
>
> 6 However, to meet the ends of justice, we feel just and proper that in future, whenever selection takes place and the petitioners apply

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for the same post in which they are working, the Government may take into account, their work as temporary employees and grant age relaxation to them, to the extent of their service in the same post.

7 We also make it clear that if the petitioners make a representation to the employment exchange for maintaining seniority in the list, as on account of their appointees temporarily, their names have been struck off, the authorities will consider the same sympathetically to restore their seniority in the list.

8 In find, the writ petitions are disposed of with the above observations and in terms of the order of this Court dated 21.11.2014 [supra]. No costs. Connected Miscellaneous Petitions are closed."

7 Since the petitioners in the case on hand, were put on notice as to the temporary status of their employment and further indication was also given that they should give a way in the event of regular appointment being made, they cannot seek for regularization as a matter of right and the Division Bench in the above cited common order, has also held so and it reached finality. The said judgment also protects the interest of the petitioners therein to some extent by making certain observations in paragraphs 6 to 8.

8 Therefore, the writ petition lacks merit and accordingly, dismissed subject to the observations made in paragraphs 6 to 8 of the order dated 27.11.2014 made in WP.No.3498/2013 batch etc. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

AP

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To

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WP.No.21142/2015

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