

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.10.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24344 of 2014

A.Sathyachitrakala

..Petitioner

vs

1.The Agricultural Production Commissioner
and Principal Secretary to the Government,
Agriculture(AA3) Department,
Secretariat, Chennai - 600 009.

2.The Chief Engineer,
Agricultural Engineering,
328, Anna Salai, Nandanam
Chennai - 600 035.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus,
directing the Respondents to regularize the service of the
petitioner by appointing her in any suitable post on considering
the long standing services of the petitioner in Agricultural
Engineering Department.

For Petitioner : Mr.G.K.Sekar

For Respondents: Mr.R.Vijayakumar

Additional Government Pleader
for R1 & R2

O R D E R

The relief sought for in this writ petition is to direct
the respondents to regularize the services of the petitioner by
appointing her in any suitable post considering the longstanding
services of the petitioner in Agricultural Engineering
Department.

2.The learned counsel appearing for the writ petitioner
states that the writ petitioner has completed B.E.(Agriculture)
in the year 1990. With regard to the Warabandi Scheme, the
petitioner was engaged as Irrigation Community Organizer as
Nominal Muster Role(hereinafter referred to as "NMR") on daily
wage basis for about twelve days. On 18.6.1991, the Assistant
Executive Engineer, Thanjavur had appointed the writ petitioner
as "NMR" for seven days. Thereafter, the petitioner was engaged
for twenty two days as "NMR". During the year 1992 to 1993, the
writ petitioner was allowed to continue as Irrigation Community

Organizer and thereafter, she was engaged on various dates at various places. Along with the writ petitioner, several other persons were appointed as Irrigation Community Organizer on temporary basis and when some of those candidates were regularized in services, the writ petitioner was also claiming that her services also to be regularized on par with other similarly placed persons.

3.The learned counsel for the writ petitioner is not disputing the fact that the writ petitioner was initially appointed as "NMR" on daily wage basis. Further, it is not disputed that an appointment on daily wage basis is under the scheme namely Warabandi scheme, which is a project. However, the learned counsel emphasized that the similarly placed candidate one Mr.Veeranan filed O.A.No.3119 of 2002 before the Tamil Nadu Administrative Tribunal(TAT) and the case was subsequently transferred before the High Court and re-numbered as W.P.No.6925 of 2007 and this Court passed an order on 18.08.2011, directing the respondents therein to regularize the services of the petitioner in any suitable post in future vacancies, taking into account the long years of services rendered by the writ petitioner in various schemes and in various posts under the respondents.

4.On a perusal of the order passed by this Court on 18.08.2011, this Court is of the opinion that the said order was passed, based on the simple fact that the writ petitioner therein was allowed to continue as "NMR" for fairly a long period. Based on the length of service with artificial breaks were considered by this Court and a direction was issued to regularize the services. Such an order passed, showing some leniency and sympathy cannot be followed as a legal precedent. This Court is bound by the legal principles settled by the Constitutional Bench of the Hon'ble Supreme Court of India in the case of The State of Karnataka Vs Umadevi, reported in 2006 4 SCC Page No.1 and the paragraphs which are extracted as follows:

"5. The power of a State as an employer is more limited than that of a private employer inasmuch as it is subjected to constitutional limitations and cannot be exercised arbitrarily (See Basu's Shorter Constitution of India). Article 309 of the Constitution gives the Government the power to frame rules for the purpose of laying down the conditions of service and recruitment of persons to be appointed to public services and posts in connection with the affairs of the Union or any of the States. That Article contemplates the drawing up of a procedure and rules to regulate the recruitment and regulate the service conditions of appointees appointed to public

posts. It is well acknowledged that because of this, the entire process of recruitment for services is controlled by detailed procedure which specify the necessary qualifications, the mode of appointment etc. If rules have been made under Article 309 of the Constitution, then the Government can make appointments only in accordance with the rules. The State is meant to be a model employer. The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 was enacted to ensure equal opportunity for employment seekers. Though this Act may not oblige an employer to employ only those persons who have been sponsored by employment exchanges, it places an obligation on the employer to notify the vacancies that may arise in the various departments and for filling up of those vacancies, based on a procedure. Normally, statutory rules are framed under the authority of law governing employment. It is recognized that no government order, notification or circular can be substituted for the statutory rules framed under the authority of law. This is because, following any other course could be disastrous inasmuch as it will deprive the security of tenure and the right of equality conferred on civil servants under the Constitutional scheme. It may even amount to negating the accepted service jurisprudence. Therefore, when statutory rules are framed under Article 309 of the Constitution which are exhaustive, the only fair means to adopt is to make appointments based on the rules so framed.

10. In addition to the equality clause represented by Article 14 of the Constitution, Article 16 has specifically provided for equality of opportunity in matters of public employment. Buttressing these fundamental rights, Article 309 provides that subject to the provisions of the Constitution, Acts of the legislature may regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of a State. In view of the interpretation placed on Article 12 of the Constitution by this Court, obviously, these principles also govern the instrumentalities that come within the purview of Article 12 of the Constitution. With a view to make the procedure for selection fair, the Constitution by Article 315 has also created a Public Service Commission for the Union and Public Service Commissions for the States. Article 320 deals with the functions of Public Service Commissions and mandates consultation with the Commission on all matters

relating to methods of recruitment to civil services and for civil posts and other related matters. As a part of the affirmative action recognized by Article 16 of the Constitution, Article 335 provides for special consideration in the matter of claims of the members of the scheduled castes and scheduled tribes for employment. The States have made Acts, Rules or Regulations for implementing the above constitutional guarantees and any recruitment to the service in the State or in the Union is governed by such Acts, Rules and Regulations. The Constitution does not envisage any employment outside this constitutional scheme and without following the requirements set down therein.

12. What is sought to be pitted against this approach, is the so called equity arising out of giving of temporary employment or engagement on daily wages and the continuance of such persons in the engaged work for a certain length of time. Such considerations can have only a limited role to play, when every qualified citizen has a right to apply for appointment, the adoption of the concept of rule of law and the scheme of the Constitution for appointment to posts. It cannot also be forgotten that it is not the role of courts to ignore, encourage or approve appointments made or engagements given outside the constitutional scheme. In effect, orders based on such sentiments or approach would result in perpetuating illegalities and in the jettisoning of the scheme of public employment adopted by us while adopting the Constitution. The approving of such acts also results in depriving many of their opportunity to compete for public employment. We have, therefore, to consider the question objectively and based on the constitutional and statutory provisions. In this context, we have also to bear in mind the exposition of law by a Constitution Bench in State of Punjab Vs. Jagdip Singh & Ors. (1964 (4) SCR 964). It was held therein, "In our opinion, where a Government servant has no right to a post or to a particular status, though an authority under the Government acting beyond its competence had purported to give that person a status which it was not entitled to give, he will not in law be deemed to have been validly appointed to the post or given the particular status."

13. During the course of the arguments, various orders of courts either interim or final were brought to our notice. The purport of those orders more or less was the issue of directions for continuation or absorption without referring to the legal position obtaining.

Learned counsel for the State of Karnataka submitted that chaos has been created by such orders without reference to legal principles and it is time that this Court settled the law once for all so that in case the court finds that such orders should not be made, the courts, especially, the High Courts would be precluded from issuing such directions or passing such orders. The submission of learned counsel for the respondents based on the various orders passed by the High Court or by the Government pursuant to the directions of Court also highlights the need for settling the law by this Court. The bypassing of the constitutional scheme cannot be perpetuated by the passing of orders without dealing with and deciding the validity of such orders on the touchstone of constitutionality. While approaching the questions falling for our decision, it is necessary to bear this in mind and to bring about certainty in the matter of public employment. The argument on behalf of some of the respondents is that this Court having once directed regularization in the Dharwad case (supra), all those appointed temporarily at any point of time would be entitled to be regularized since otherwise it would be discrimination between those similarly situated and in that view, all appointments made on daily wages, temporarily or contractually, must be directed to be regularized. Acceptance of this argument would mean that appointments made otherwise than by a regular process of selection would become the order of the day completely jettisoning the constitutional scheme of appointment. This argument also highlights the need for this Court to formally lay down the law on the question and ensure certainty in dealings relating to public employment. The very divergence in approach in this Court, the so-called equitable approach made in some, as against those decisions which have insisted on the rules being followed, also justifies a firm decision by this Court one way or the other. It is necessary to put an end to uncertainty and clarify the legal position emerging from the constitutional scheme, leaving the High Courts to follow necessarily, the law thus laid down.

14. Even at the threshold, it is necessary to keep in mind the distinction between regularization and conferment of permanence in service jurisprudence. In STATE OF MYSORE Vs. S.V. NARAYANAPPA [1967 (1) S.C.R. 128], this Court stated that it was a mis-conception to consider that regularization meant permanence. In R.N. NANJUNDAPPA Vs T. THIMMIAH & ANR. [(1972) 2

S.C.R. 799], this Court dealt with an argument that regularization would mean conferring the quality of permanence on the appointment. This Court stated:- "Counsel on behalf of the respondent contended that regularization would mean conferring the quality of permanence on the appointment, whereas counsel on behalf of the State contended that regularization did not mean permanence but that it was a case of regularization of the rules under Article 309. Both the contentions are fallacious. If the appointment itself is in infraction of the rules or if it is in violation of the provisions of the Constitution, illegality cannot be regularized.

Ratification or regularization is possible of an act which is within the power and province of the authority, but there has been some non-compliance with procedure or manner which does not go to the root of the appointment. Regularization cannot be said to be a mode of recruitment. To accede to such a proposition would be to introduce a new head of appointment in defiance of rules or it may have the effect of setting at naught the rules."

In B.N. Nagarajan & Ors. Vs. State of Karnataka & Ors. [(1979) 3 SCR 937], this court clearly held that the words "regular" or "regularization" do not connote permanence and cannot be construed so as to convey an idea of the nature of tenure of appointments. They are terms calculated to condone any procedural irregularities and are meant to cure only such defects as are attributable to methodology followed in making the appointments. This court emphasized that when rules framed under Article 309 of the Constitution of India are in force, no regularization is permissible in exercise of the executive powers of the Government under Article 162 of the Constitution in contravention of the rules. These decisions and the principles recognized therein have not been dissented to by this Court and on principle, we see no reason not to accept the proposition as enunciated in the above decisions. We have, therefore, to keep this distinction in mind and proceed on the basis that only something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularized and that it alone can be regularized and granting permanence of employment is a totally different concept and cannot be equated with regularization.

20. We may now consider, State of Haryana Vs. Piara Singh and Others [1992] 3 SCR 826]. There, the court

was considering the sustainability of certain directions issued by the High Court in the light of various orders passed by the State for the absorption of its ad hoc or temporary employees and daily wagers or casual labour. This Court started by saying:

"Ordinarily speaking, the creation and abolition of a post is the prerogative of the Executive. It is the Executive again that lays down the conditions of service subject, of course, to a law made by the appropriate legislature. This power to prescribe the conditions of service can be exercised either by making rules under the proviso to Article 309 of the Constitution or (in the absence of such rules) by issued rules/instructions in exercise of its executive power. The court comes into the picture only to ensure observance of fundamental rights, statutory provisions, rules and other instructions, if any governing the conditions of service"

This Court then referred to some of the earlier decisions of this Court while stating:

"The main concern of the court in such matters is to ensure the rule of law and to see that the Executive acts fairly and gives a fair deal to its employees consistent with the requirements of Articles 14 and 16. It also means that the State should not exploit its employees nor should it seek to take advantage of the helplessness and misery of either the unemployed persons or the employees, as the case may be. As is often said, the State must be a model employer. It is for this reason, it is held that equal pay must be given for equal work, which is indeed one of the directive principles of the Constitution. it is for this very reason it is held that a person should not be kept in a temporary or ad hoc status for long. Where a temporary or ad hoc appointment is continued for long the court presumes that there is need and warrant for a regular post and accordingly directs regularization. While all the situations in which the court may act to ensure fairness cannot be detailed here, it is sufficient to indicate that the guiding principles are the ones stated above."

This Court then concluded in paragraphs 45 to 50:

"The normal rule, of course, is regular recruitment through the prescribed agency but exigencies of administration may sometimes call for an ad hoc or temporary appointment to be made. In such a situation, effort should always be to replace such an ad hoc/temporary employee by a regularly selected

employee as early as possible. Such a temporary employee may also compete along with others for such regular selection/appointment. If he gets selected, well and good, but if he does not, he must give way to the regularly selected candidate. The appointment of the regularly selected candidate cannot be withheld or kept in abeyance for the sake of such an ad hoc/temporary employee.

Secondly, an ad hoc or temporary employee should not be replaced by another ad hoc or temporary employee; he must be replaced only by a regularly selected employee. This is necessary to avoid arbitrary action on the part of the appointing authority.

Thirdly, even where an ad hoc or temporary employment is necessitated on account of the exigencies of administration, he should ordinarily be drawn from the employment exchange unless it cannot brook delay in which case the pressing cause must be stated on the file. If no candidate is available or is not sponsored by the employment exchange, some appropriate method consistent with the requirements of Article 16 should be followed. In other words, there must be a notice published in the appropriate manner calling for applications and all those who apply in response thereto should be considered fairly.

An unqualified person ought to be appointed only when qualified persons are not available through the above processes.

If for any reason, an ad hoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularization provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the State "

With respect, why should the State be allowed to depart from the normal rule and indulge in temporary employment in permanent posts? This Court, in our view, is bound to insist on the State making regular and proper recruitments and is bound not to encourage or shut its eyes to the persistent transgression of the rules of regular recruitment. The direction to make permanent -- the distinction between regularization and making permanent, was not emphasized here -- can only encourage the State, the model employer, to flout its own rules and would confer undue benefits on a few at the cost of many waiting to compete. With respect, the direction made

in paragraph 50 of Piara Singh (supra) are to some extent inconsistent with the conclusion in paragraph 45 therein. With great respect, it appears to us that the last of the directions clearly runs counter to the constitutional scheme of employment recognized in the earlier part of the decision. Really, it cannot be said that this decision has laid down the law that all ad hoc, temporary or casual employees engaged without following the regular recruitment procedure should be made permanent.

43. Normally, what is sought for by such temporary employees when they approach the court, is the issue of a writ of mandamus directing the employer, the State or its instrumentalities, to absorb them in permanent service or to allow them to continue. In this context, the question arises whether a mandamus could be issued in favour of such persons. At this juncture, it will be proper to refer to the decision of the Constitution Bench of this Court in Dr. Rai Shivendra Bahadur Vs. The Governing Body of the Nalanda College [(1962) Supp. 2 SCR 144]. That case arose out of a refusal to promote the writ petitioner therein as the Principal of a college. This Court held that in order that a mandamus may issue to compel the authorities to do something, it must be shown that the statute imposes a legal duty on the authority and the aggrieved party had a legal right under the statute or rule to enforce it. This classical position continues and a mandamus could not be issued in favour of the employees directing the government to make them permanent since the employees cannot show that they have an enforceable legal right to be permanently absorbed or that the State has a legal duty to make them permanent.

44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. NARAYANAPPA (supra), R.N. NANJUNDAPPA (supra), and B.N. NAGARAJAN (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should

take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme.

45. It is also clarified that those decisions which run counter to the principle settled in this decision, or in which directions running counter to what we have held herein, will stand denuded of their status as precedents.

46. In cases relating to service in the commercial taxes department, the High Court has directed that those engaged on daily wages, be paid wages equal to the salary and allowances that are being paid to the regular employees of their cadre in government service, with effect from the dates from which they were respectively appointed. The objection taken was to the direction for payment from the dates of engagement. We find that the High Court had clearly gone wrong in directing that these employees be paid salary equal to the salary and allowances that are being paid to the regular employees of their cadre in government service, with effect from the dates from which they were respectively engaged or appointed. It was not open to the High Court to impose such an obligation on the State when the very question before the High Court in the case was whether these employees were entitled to have equal pay for equal work so called and were entitled to any other benefit. They had also been engaged in the teeth of directions not to do so. We are, therefore, of the view that, at best, the Division Bench of the High Court should have directed that wages equal to the salary that are being paid to regular employees be paid to these daily wage employees with effect from the date of its judgment. Hence, that part of the direction of the Division Bench is modified and it is directed that these daily wage earners be paid wages equal to the salary at the

lowest grade of employees of their cadre in the Commercial Taxes Department in government service, from the date of the judgment of the Division Bench of the High Court. Since, they are only daily wage earners, there would be no question of other allowances being paid to them. In view of our conclusion, that Courts are not expected to issue directions for making such persons permanent in service, we set aside that part of the direction of the High Court directing the Government to consider their cases for regularization. We also notice that the High Court has not adverted to the aspect as to whether it was regularization or it was giving permanency that was being directed by the High Court. In such a situation, the direction in that regard will stand deleted and the appeals filed by the State would stand allowed to that extent. If sanctioned posts are vacant (they are said to be vacant) the State will take immediate steps for filling those posts by a regular process of selection. But when regular recruitment is undertaken, the respondents in C.A. No. 3595-3612 and those in the Commercial Taxes Department similarly situated, will be allowed to compete, waiving the age restriction imposed for the recruitment and giving some weightage for their having been engaged for work in the Department for a significant period of time. That would be the extent of the exercise of power by this Court under Article 142 of the Constitution to do justice to them.

47. Coming to Civil Appeal Nos. 1861-2063 of 2001, in view of our conclusion on the questions referred to, no relief can be granted, that too to an indeterminate number of members of the association. These appointments or engagements were also made in the teeth of directions of the Government not to make such appointments and it is impermissible to recognize such appointments made in the teeth of directions issued by the Government in that regard. We have also held that they are not legally entitled to any such relief. Granting of the relief claimed would mean paying a premium for defiance and insubordination by those concerned who engaged these persons against the interdict in that behalf. Thus, on the whole, the appellants in these appeals are found to be not entitled to any relief. These appeals have, therefore, to be dismissed.

48. C.A. Nos. 3520-24 of 2002 have also to be allowed since the decision of the Zilla Parishads to make permanent the employees cannot be accepted as legal.

Nor can the employees be directed to be treated as employees of the Government, in the circumstances. The direction of the High Court is found unsustainable.

49. In the result, Civil Appeal Nos. 3595-3612 of 1999, Civil Appeal No. 3849 of 2001, Civil Appeal Nos. 3520-3524 of 2002 and Civil appeal arising out of Special Leave Petition (Civil) Nos. 9103-9105 of 2001 are allowed subject to the direction issued under Article 142 of the Constitution in paragraph 46 and the general directions contained in paragraph 44 of the judgment and Civil Appeal Nos. 1861-2063 of 2001 are dismissed. There will be no order as to costs."

5. Subsequently, the Hon'ble Supreme Court of India reiterated the legal principles settled by the Constitution Bench in the case of SECRETARY TO GOVERNMENT, SCHOOL EDUCATION DEPARTMENT, CHENNAI v. R. GOVINDASWAMY AND ORS. [(2014) 4 SCC 769]. In paragraph No.8, the Hon'ble Supreme Court has observed as follows:

"8. this Court in State of Rajasthan & Ors. v. Daya Lal & Ors., AIR 2011 SC 1193, has considered the scope of regularisation of irregular or part-time appointments in all possible eventualities and laid down well-settled principles relating to regularisation and parity in pay relevant in the context of the issues involved therein. The same are as under:

"(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service

would be "litigious employment". Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment 5 Page 6 cannot be grounds for passing any order of regularisation in the absence of a legal right.

(iii) Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.

(iv) Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees.

(v) Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute." (Emphasis added) "

6.The Hon'ble Apex Court of India authoritatively emphasized that irregular appointments cannot be regularized nor the persons appointed through back door entry can be absorbed in a permanent post. The order relied on by the learned counsel for the petitioner in W.P.No.6925 of 2007 is of no avail, in view of the fact that the legal principles settled by the Hon'ble Supreme Court of India has not been considered by this Court in the earlier writ petition. This apart, the order cited by the learned counsel for the writ petitioner is silent in respect of the appointment made irregularly contrary to the service rules in force.

7.The Department of Agricultural Engineering is a State Department and the posts under the Tamil Nadu Public Service Commission and recruitment to all such public posts are to be undertaken only under the Constitutional schemes and in an open competitive process.

8.All appointments to public posts are to be filled up only by way of Constitutional schemes and by following the recruitment rules in force. Equal opportunity in employment is a Constitutional mandate and equality clause is to be applied scrupulously by the State while undertaking the process of recruitment. Lakhs and Lakhs of qualified and eligible youth of this great Nation are aspiring and longing to secure public employment. Under these circumstances, the Constitutional Courts must be cautious while ordering for regularization against the appointments not made in accordance with the recruitment rules in force.

9.By merely filing a writ petition by an irregular appointee, if an order of regularization is issued by the Courts, the impact of unsettling the recruitment rules and other consequences are to be taken note of. Certainly, such practice would amount to a bad precedent and any displaced sympathy by the Constitutional Courts, by extending the benefit of regularization to the irregular employees will deprive the rightful opportunity of the large number of qualified candidates, who are aspiring and longing for public employments. A striking balance is to be adopted while granting relief in such kind of matters, the balance would be that if an irregular employee is regularized the right of eligible candidate to secure public employment through open competitive process is not only denied but also lead to frustrations amongst the meritorious candidates who are otherwise aspiring to secure public employment. The larger consequences in granting such relief contrary to the recruitment rules, are to be certainly taken note of by the Constitutional Courts, while granting such relief of regularization contrary to the service rules.

10.Equal opportunity is the Constitutional mandate. When the Courts have issued such orders in isolation of the Constitutional perspectives, then, the society at large will get frustration in the system of public administration and thus, this Court is of an undoubted opinion that equal opportunity to all the eligible youths through open competitive process alone is the way out to settle this kind of issues.

11.The authorities competent of the State have to be cautioned in entertaining or making such irregular appointments. The competent authorities are showing some favouritism or nepotism or acting according to their whims and fancies. Such authorities are engaging or issuing such appointments either for their personal gains or to show their bureaucratic powers. Thus, such authorities are certainly to be prosecuted and disciplinary proceedings are to be initiated against such authorities, who are issuing such illegal and irregular appointment orders and providing unnecessary hope to the poor

candidates, who are otherwise have not committed any mistake. The State should take appropriate measures in this regard by issuing proper circular or instructions to all the appointing authorities that if any appointment is made in contravention to the service rules or recruitment rules in force, a disciplinary action or prosecution is to be launched against such appointing authorities by the higher officials or by the State.

12. Under these circumstances, this Court is frequently witnessing such irregular/illegal appointments by the appointing authorities in various Departments at various levels. It is for the State to monitor such kind of illegal and irregular appointments and initiate appropriate action against all such officials committing errors or misconducts in this regard. Though the Hon'ble Supreme Court of India rendered an authoritative judgment which becomes the law of the land in the case of The State of Karnataka Vs Umadevi in the year 2006 and now 11 years have lapsed, even thereafter, in the case of SECRETARY TO GOVERNMENT, SCHOOL EDUCATION DEPARTMENT, CHENNAI v. R. GOVINDASWAMY AND ORS., a case emanated from the State of Tamilnadu, the Hon'ble Supreme Court again reiterated that High Courts should not issue any order of regularization. Even thereafter, the authorities are not cautioning the appointing authorities for eradicating and stopping the irregular and illegal appointments.

13. This Court is of the view that the rights and interest of all citizens are to be protected by the Constitutional Courts and by granting a relief to a set of people, the Court cannot unsettle the legal principles and the law in force. Granting a relief to a particular class of people in violation of the Statutory and recruitment rules in force will certainly cause injustice to the larger sector of people, who are otherwise waiting and aspiring to secure public employments. This being the view and the principle to be adopted in order to uphold the majesty of our Constitution, this Court is of the opinion that the prayer seeking regularization of services or permanent absorption in respect of an appointee who was not appointed in accordance with the service rules in force, cannot be granted.

14. Accordingly, the grounds raised in this writ petition deserve no further consideration. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS-)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Secretary to
to government, Govt. of Tamil nadu,
fort St. George, Chennai 9

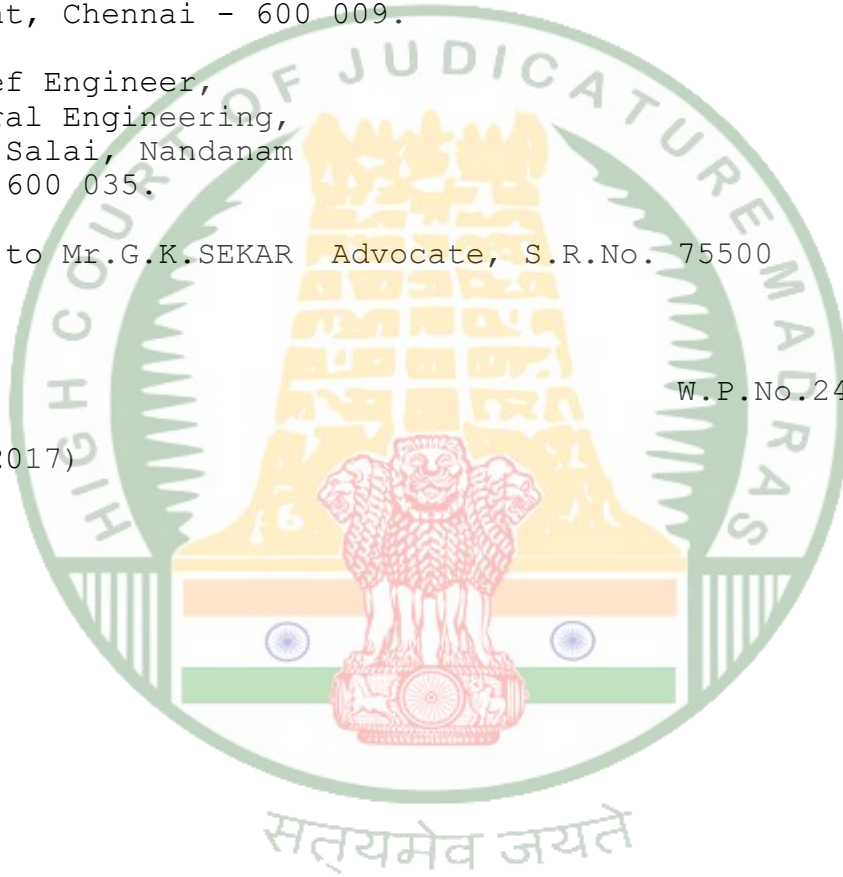
2.The Agricultural Production Commissioner
and Principal Secretary to the Government,
Agriculture(AA3) Department,
Secretariat, Chennai - 600 009.

3.The Chief Engineer,
Agricultural Engineering,
328, Anna Salai, Nandanam
Chennai - 600 035.

+1cc to Mr.G.K.SEKAR Advocate, S.R.No. 75500

W.P.No.24344 of 2014

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