

IN THE HIGH COURT OF JUDICATURE AT MADRAS

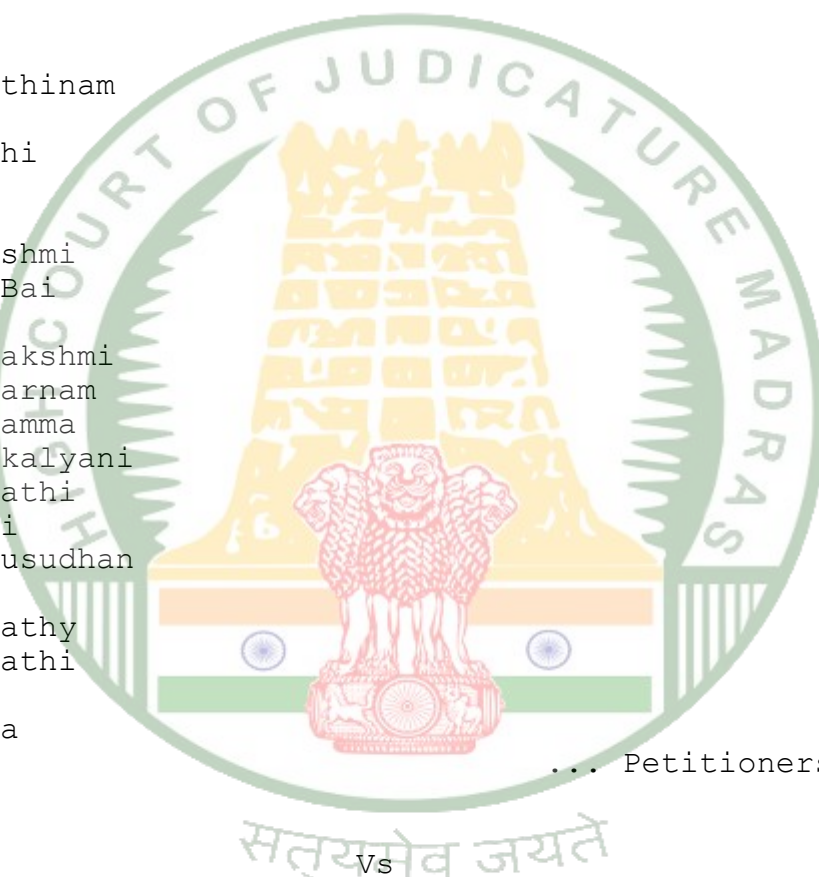
DATED: 22.11.2017

CORAM

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

W.P.No.25463 of 2010
and M.P.No.1 & 2 of 2010

- 1.Y.Rathinaiah
- 2.K.Shakila
- 3.S.Jeya
- 4.D.Selvarathinam
- 5.U.Lakshmi
- 6.S.K.Shanthi
- 7.B.Kavitha
- 8.K.Nagamma
- 9.P.Varalakshmi
- 10.Lakshmi Bai
- 11.P.Sathya
- 12.C.Dhanalakshmi
- 13.S.Pachavarnam
- 14.Kanikkaramma
- 15.M.Panchakalyani
- 16.R.Saraswathi
- 17.P.Easwari
- 18.J.E.Madhusudhan
- 19.B.Valli
- 20.C.Neelavathy
- 21.R.Padmavathi
- 22.K.Janaki
- 23.Ranjeetha



... Petitioners

vs

- 1.Vijaya Bank
Rep. by General Manager (Personnel)
Head Office,
42/1 M.G.Road
Bangalore 560001

- 2.Deputy General Manager
Vijaya Bank
Regional Office
Rukmani Lakshmipathy Road
Egmore, Chennai 600008

... Respondents

PRAYER: Writ Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus, directing the respondents to appoint the petitioners as permanent part-time sweepers in the vacancies available in the Chennai region of the respondent bank.

For Petitioners : Mr.Jayesh B.Dolia

For Respondents : Mr.C.Seethapathy
Additional Government Pleader

O R D E R

The relief sought for in this Writ Petition is to direct the respondents to appoint the petitioners as permanent part-time sweepers in the vacancies available in the Chennai region of the Respondent Bank.

2.The learned counsel appearing on behalf of the writ petitioners state that the petitioners were appointed as temporary part time sweepers for a considerable length of time and based on the length of service, the petitioners are claiming permanent absorption in the Respondent Bank. At this juncture, the learned counsel for the respondents brought to the notice of this Court that out of 23 writ petitioners, 16 petitioners were absorbed permanently and rest of the 7 petitioners were not appointed on account of want of required qualifications as per the rules in force. Thus, there is no possibility in considering the remaining 7 petitioners for permanent absorption. Further, this Court has to consider the legal principles in the matter of permanent absorption of temporary employees. The Constitution Bench of the Hon'ble Supreme Court of India has settled this issue in the case of State of Karnataka Vs. Umadevi reported in 2006 4 SCC page No.1. Accordingly, the High Court cannot issue any direction granting regularization or permanent absorption in respect of the employees who were appointed not in accordance with the recruitment rules in force. Back door appointment cannot be regularized nor an order of direction can be issued to absorb them on permanent basis. Appointment must be done only in accordance with the recruitment rules in force and by following the principles of equity. Equal opportunity in public appointment is a constitutional mandate and the State/Union are bound to follow the principles of transparency and all the appointments ought to be undertaken only through open competitive process by adhering to the rules in force. The legal principles were again reiterated by the Hon'ble Supreme Court in the case of Secretary to Government Vs. R.Govindasamy and others reported in [(2014) 4 SCC 769]. This time, the Hon'ble Supreme

Court directed the High Court not to issue any directions for regularization, permanent absorption under Article 226 of the Constitution of India. An irregularity or illegality in the appointment cannot be cured by way of issuing a direction in the Writ Petitions. This being the legal principles settled by the Hon'ble Apex Court of India, this Court is not inclined to consider the appointment as such sought for in this Writ Petition.

3. Accordingly, this Writ Petition stands dismissed. However, there is order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The General Manager (Personnel)
Vijaya Bank
Head Office,
42/1 M.G. Road
Bangalore 560001

2. Deputy General Manager
Vijaya Bank
Regional Office
Rukmani Lakshmipathy Road
Egmore, Chennai 600008

+1 cc to Mr. C. Seethapathy Advocate sr 82979
+1 cc to Mr. Aiyar & Dolia Advocate sr 83399

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vgII(co)
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