

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2017

CORAM

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

W.P.No.27192 of 2009

K.N.Ravikumar

... Petitioner

Vs

1.The District Educational Officer,
Office of the District Educational Officer,
Udhagamandalam,
Nilgiris.

2.The Director of School Education,
College Road,
Nungambakkam,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus, directing the respondents to consider the representation made by the petitioner on 09.01.2008.

For Petitioner : Mr.A.Bobbilie

For Respondents : Mr.K.Thangapandi
Government Advocate

ORDER

The relief sought for in this Writ Petition is for a direction, directing the respondents to consider the representation made by the petitioner on 09.01.2008 in respect of the appointment to the post of Vocational Instructor.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner was initially appointed as part time Instructor and is continuing in the same capacity as part time Instructor. The learned counsel for the petitioner states that since the writ petitioner is continuing in service, he must be absorbed permanently in the regular time scale of pay.

3.The writ petitioner has not established that he was appointed to the post in accordance with the recruitment rules in forces during the relevant point of time. Thus, it is to be construed that the appointment of the writ petitioner was irregular. This Court cannot grant any direction for regularization of service or to absorb the petitioner in a permanent post on regular time scale of pay. The legal principles in the matter of appointment, regularization of services and permanent absorption is settled by the Constitutional Bench of the Hon'ble Supreme Court of India 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. The legal principles were again reinstated by the Hon'ble Supreme Court in the case of Secretary to Government Vs. R.Govindasamy and others reported in [(2014) 4 SCC 769]. Thus, the claim of the writ petitioner deserves no consideration.

4.The relief sought for in this Writ Petition is to consider the representation submitted by the writ petitioner. Even for issuing any such direction, the petitioner has to establish a legal right. In the absence of any legal right, no such direction can be issued to the respondents. In these circumstances, the writ petitioner has to participate in the open competitive process at the time of issuing recruitment notification and get himself selected. Thus, no further adjudication needs to be entertained in this regard in this Writ Petition.

5.Accordingly, this Writ Petition stands dismissed. However, there is order as to costs.

सत्यमेव जयते

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

gsa
To

1.The District Educational Officer,
Office of the District Educational Officer,
Udhagamandalam,
Nilgiris.

2.The Director of School Education,
College Road,
Nungambakkam,
Chennai.

+1 cc to the Govt Pleader sr 83720
+1 cc to M/s.A.Boblie Advocate sr 82954

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