



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2017

CORAM:

THE HONOURABLE **MR. JUSTICE T.S.SIVAGNANAM**

AND

THE HONOURABLE **MR. JUSTICE N.SESHASAYEE**

W.A.(MD) Nos.463 and 464 of 2017

&

C.M.P.(MD).Nos.4171 and 4172 of 2017

The Madurai Kamaraj University,
Rep. by its Registrar,
Madurai,
Madurai District -625 021.

... Appellant /Respondent

Vs.

B.Noorjahan

... Respondent/ Petitioner in
W.A. (MD).No.463/2017

K.Ravi Kumar

... Respondent/ Petitioner in
W.A. (MD).No.464/2017

PRAYER: Writ Appeals are filed under Clause 15 of Letters Patent to set aside the orders in W.P.(MD).Nos.20954 and 20955 of 2016, dated 30.11.2016.

Prayer in WP(MD). 20954/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent University to regularise the petitioners service as Clerk / Junior Assistant w.e.f the date of the completion of her 10 years of service as Consolidated Pay Casual Labourer (CPCLR) i.e., on 14.11.2015 and sanction and release all attendant benefits therein.

Prayer in WP(MD). 20955/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondent University to regularise the petitioners service as Clerk / Junior Assistant w.e.f the date of the completion of his 10 years of service as Consolidated Pay Casual Labourer (CPCLR) i.e., on 14.11.2015 and sanction and release all attendant benefits therein.



For Appellants : Mr.T.Sakthi Kumaran
For Respondents : Mr.T.Cibi Chakraborty

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J**]

Heard Mr.T.Sakthi Kumaran, learned counsel for the appellants and Mr.T.Cibi Chakraborty, learned counsel, who accepts notice for the respondents. By consent, the writ appeals itself are taken up for final disposal.

2. This appeal is directed against the orders in W.P.(MD). Nos.20954 and 20955 of 2016, dated 30.11.2016. The respondents herein prayed for a direction against the appellant University to regularize their service as Clerk/Junior Assistant with effect from the date of the completion of their 10 years of service as Consolidated Pay Casual Labourer (CPCLR).

3. The Writ Court disposed of the writ petitions by issuing a positive direction to regularize the writ petitioners services as Clerk/Junior Assistant. The order is a short order and we find the reason assigned in the order by the Writ Court for allowing the writ petitions is in paragraph 4, which reads as follows"-

"Now it is conceded by the learned counsel for the respondent that each of the petitioner in these two have also completed 10 years service, having joint the service on 14.11.2015."

4. The learned counsel for the respondent/caveator would submit that the appellant university having conceded before the Writ Court that the writ petitioners have completed 10 years of service having joined the service on 14.11.2015 is not entitled to challenge the order by way of this appeal and the appeal is not maintainable. Furthermore, the learned counsel seeks to justify the appointment of the writ petitioners on the ground that proper recruitment process was followed with due approval of the Syndicate/Senate of the appellant university and therefore, the writ petitioners are not back-door entrants, but have been recruited after following a recruitment process. Furthermore, having completed 10 years of service they are entitled to be absorbed as permanent employees of the appellant university.

5. Record of proceedings shows, that the appellant university did not have an opportunity to file counter affidavits and what has been recorded by the Writ Court in paragraph 4 does not reveal that the appellant university conceded to the relief sought for by the writ petitioners, but they only conceded to the fact that the ~~services completed in services~~ have completed 10 years of service. Therefore, this is a fit case where the appellant university should be afforded an opportunity to file their counter affidavits and the



parties should agitate the matter before the Writ Court afresh and take an order on merits.

6. For the above reasons, the writ appeals are allowed and the impugned orders are set aside and the writ petitions are restored to file of this Court with a direction to the appellant/respondent to file counter affidavits, within a period of 4 weeks from the date of receipt of a copy of this order, after which the writ petitions shall be placed before the appropriate bench for being heard and dispose of, on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

+1 CC to M/s.T.SAKTHI KUMARAN, Advocate, SR No. 55006
+1 CC to M/s.T.CIBI CHAKRABORTHY, Advocate, SR No. 55294
JIKR
PSM/MMS/19.05.2017/3P/3C

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