

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-07-2018

CORAM:

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

W.P.No.19022 of 2018

And

W.M.P.No.22412 of 2018

1.G.Vijayarangan
2.R.Anand
3.E.Athibass
4.T.Vimaladithan
5.E.Vinoth

..

Petitioners

vs.

1.The Chairman,
Indira Gandhi Medical College and Research
Institute,
Vazhudavour Road,
Kadirkamam,
Pondicherry-605 609.

2.The Director,
Indira Gandhi Medical College and Research
Institute,
Vazhudavour Road,
Kadirkamam,
Pondicherry-605 609.

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Mandamus, directing the respondents not to terminate the petitioner without due process of law as they were appointed duly constituted Selection Committee after obtaining the Medical Fitness from the prescribed authority.

For petitioners : Mr.P.Suresh

For Respondents : Mr.J.Kumaran,
Government Advocate (Pondicherry)

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents to terminate the writ petitioners without due process of law as they were appointed duly constituted Selection Committee after obtaining the Medical Fitness from the prescribed authority.

2. The grievances of the writ petitioners are that they were initially appointed as 'Multipurpose Worker' on contract basis and they are continuing in the same capacity. However, the respondents are attempting to terminate the services of the writ petitioners without following the procedures contemplated under the Recruitment Rules. This Court is of an opinion that all appointments are to be made only in accordance with the Recruitment Rules in force. Equal opportunity in public employment is the Constitutional mandate. The Constitution Bench of the Hon'ble Supreme Court of India in the case of State of Karnataka vs. Umadevi [(2006) 4 SCC 1], laid down the legal principles in the matter of regularisation and permanent absorption. The State cannot make appointment contrary to the rules. Back door appointments cannot be made and subsequently, there cannot be any claim for regularisation or permanent absorption. In respect of back door appointments, the Constitution Bench had clearly stated that State should restrain from appointing such persons on temporary basis nor such temporary appointments can be allotted for an unspecified period, so as to effect the regular recruitment process.

3. This being the principles settled by the Hon'ble Supreme Court of India, this Court is of an opinion that the writ petitioners are continuing on contract basis and on the terms and conditions stipulated and, their appointments are also made on certain terms and conditions and, accepting the same, the writ petitioners are employed and serving in the Department. Now they cannot go back from the terms and conditions accepted by them, while accepting their appointments on contract basis.

4. Under these circumstances, the learned counsel for the writ petitioners state that the respondents have initiated steps to terminate the writ petitioners. Even in that case, as of now, no order of termination has been issued. The order of termination, if at all, issued is to be tested in the light of the legal principles settled by the Constitution Bench of the Hon'ble Supreme Court of India, cited supra.

5. Thus, the writ petition is not only premature and also the writ petitioners have not established any cause of action for the purpose of entertaining the present writ petition. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Chairman,
Indira Gandhi Medical College and Research
Institute,
Vazhudavour Road,
Kadirkamam,
Pondicherry-605 609.

2.The Director,
Indira Gandhi Medical College and Research
Institute,
Vazhudavour Road,
Kadirkamam,
Pondicherry-605 609

+1cc to Mr.P.Suresh, Advocate sr.no.49855

+1cc to Government Pleader(Pondicherry) sr.no.49896

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nr 02/08/2018