



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2018

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THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P. (MD) No.10899 of 2011

K.Nirmala

...Petitioner

Vs.

Thanthoni Municipality,
represented by its
Executive Officer,
Thanthonimalai,
Karur District.

...Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to reinstate the petitioner as assistant with all consequential benefits.

For Petitioner : Mr.G.Satish

For Respondent : Mr.D.Raghu

O R D E R

The relief sought for in this writ petition is to direct the respondent to reinstate the petitioner as Assistant with all consequential benefits.

2.The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner was appointed as Assistant in the year 2004 on daily wage basis. The writ petitioner was continuously working as contract employee from the year 2004 and her services were terminated by the respondent in the year 2011.

3.The grievance of the writ petitioner is that she is fully qualified for continuance in the post of Assistant and the service of the writ petitioner was terminated, the learned counsel for the writ petitioner further brought to the notice of this Court that the Government issued G.O.No.385 dated 01.10.2010 fixing special time scale of pay in respect of daily wage basis employees. Undoubtedly, the temporary employees are also entitled for time scale of pay. However, the services of the writ petitioner was terminated in the year 2011 and therefore, the benefit granted by the respondent now cannot be extended to the writ petitioner. The

question arises whether reinstatement can be considered or not.

4.This Court is of an opinion that the writ petitioner was appointed only as daily wages employee. Therefore, her services cannot be regularised nor she can be absorbed permanently. Contrarily, the writ petitioner has to participate in the selection of process and get herself selected. This Court cannot issue any direction for reinstatement, in view of the fact that the writ petitioner was not appointed in accordance with the recruitment rules in force. There cannot be any direction in respect of reinstatement of the daily wages employee or contract employees. All appointments are to be made only by following the recruitment rules and there cannot be any violation or dilution. The authorities competent are bound to follow the rules in force and by providing equal opportunity to all the eligible candidates, who are participating in the open competitive process. This being the principles to be followed, it is left open to the writ petitioner to participate in the selection of process if any notification for recruitment is issued by the respondent.

5.With these above observations, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

The Executive Officer,
Thanthoni Municipality,
Thanthonimalai,
Karur District.

+ 1 cc TO Mr.G.Sathish for M/S.T.Antony Arul Raj , Advocate in SR No. 45734

+ 1 cc TO Mr.J.Senthil Kumaraiah , Advocate in SR No. 45346

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AE/MR/SAR1/19.02.2018/2P/4C

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