



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2018

CORAM:

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAMW.P.(MD)Nos.15199, 15201, 15215 and 15293 of 2013in W.P.(MD)No.15199 of 2013

V.Banumathi

... Petitioner

Vs.

1.The Government of Tamil Nadu,
represented by its Secretary,
Social Welfare and Noon Meal Department,
Fort St.George,
Secretariat,
Chennai - 600 009.

2.The Director of Social Welfare,
Chennai - 600 002.

3.The Instructor,
Block Project Nutritious Office,
Sakkottai at Karaikudi.

4.The Commissioner,
Sakkottai Panchayat Union,
Sakkottai,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the petitioner's appointment from 10 years of completion of her service in the post Child Welfare Organizer and include her name in the panel for promotion to the post of Women Welfare Officer / Supervisor Grade II by placing her in Serial No.262 and to promote her to the post of Women Welfare Officer / Supervisor Grade II from the day of her immediate junior was promoted and pay all monetary benefits.

For Petitioner

: Mr.M.Veilkani Raju

For Respondents

: Mr.M.Muthu

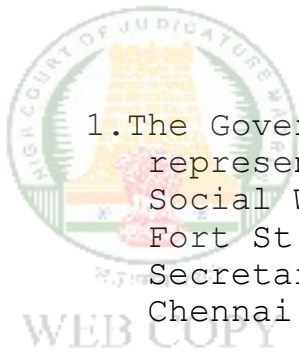
Additional Government Pleader

in W.P.(MD)No.15201 of 2013

K.Meenakshi

... Petitioner

Vs.



1.The Government of Tamil Nadu,
represented by its Secretary,
Social Welfare and Noon Meal Department,
Fort St.George,
Secretariat,
Chennai - 600 009.

2.The Director of Social Welfare,
Chennai - 600 002.

3.The Instructor,
Block Project Nutritious Office,
Sakkottai at Karaikudi.

4.The Commissioner,
Sakkottai Panchayat Union,
Sakkottai,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the petitioner's appointment from 10 years of completion of her service in the post Child Welfare Organizer and include her name in the panel for promotion to the post of Women Welfare Officer / Supervisor Grade II by placing her in Serial No.256 and to promote her to the post of Women Welfare Officer / Supervisor Grade II from the day of her immediate junior was promoted and pay all monetary benefits.

For Petitioner
For Respondents

: Mr.M.Veilkani Raju
: Mr.M.Muthu
Additional Government Pleader

in W.P. (MD) No.15215 of 2013

R.M.Parvathy

... Petitioner

Vs.

1.The Government of Tamil Nadu,
represented by its Secretary,
Social Welfare and Noon Meal Department,
Fort St.George,
Secretariat,
Chennai - 600 009.

2.The Director of Social Welfare,
Chennai - 600 002.

3.The Instructor,
Block Project Nutritious Office,
Sakkottai at Karaikudi.



4.The Commissioner,
Sakkottai Panchayat Union,
Sakkottai,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the petitioner's appointment from 10 years of completion of her service in the post Child Welfare Organizer and include her name in the panel for promotion to the post of Women Welfare Officer / Supervisor Grade II by placing her in Serial No.259 and to promote her to the post of Women Welfare Officer / Supervisor Grade II from the day of her immediate junior was promoted and pay all monetary benefits.

For Petitioner
For Respondents

: Mr.M.Veilkani Raju
: Mr.M.Muthu
Additional Government Pleader

in W.P. (MD) No.15293 of 2013

M.Amaravathy

... Petitioner

Vs.

1.The Government of Tamil Nadu,
represented by its Secretary,
Social Welfare and Noon Meal Department,
Fort St.George,
Secretariat,
Chennai - 600 009.

2.The Director of Social Welfare,
Chennai - 600 002.

3.The Instructor,
Block Project Nutritious Office,
Sakkottai at Karaikudi.

4.The Commissioner,
Sakkottai Panchayat Union,
Sakkottai,
Sivagangai District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to regularize the petitioner's appointment from 10 years of completion of her service in the post Child Welfare Organizer and include her name in the panel for promotion to the post of Women Welfare Officer / Supervisor Grade II by placing her in Serial No.246 and to promote her to the post of Women Welfare Officer / Supervisor Grade II from the day of her immediate junior was promoted and pay all monetary benefits.



For Petitioner
For Respondents

: Mr.M.Veilkani Raju
: Mr.M.Muthu
Additional Government Pleader

C O M M O N O R D E R

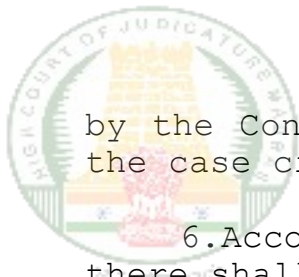
The relief sought for in these writ petitions is for a direction to direct the respondents to regularize the service of the writ petitioner on completion of 10 years of service in the post of Child Welfare Organizer and accordingly, pay all monetary benefits.

2.The writ petitioners state that the writ petitioners were appointed as Child Welfare Organizers based on the Government Orders on consolidated pay. The writ petitioners further state that it is a full time job and the writ petitioners have to work from 08.30 a.m., to 04.00 p.m.. The writ petitioners are continuously working in the post for the past more than 10 years and therefore, they claim that they are entitled for regularization of service based on the length of service already rendered.

3.The learned counsel appearing on behalf of the writ petitioners states that the Government passed number of orders to regularize the services of the temporary employees on completion of 10 years of service. However, the benefit of Government Orders are not extended to the writ petitioners. This Court is of an opinion that the Government Order passed prior to 2006 cannot be applied, in view of the judgment of the Hon'ble Supreme Court of India in the case of *The Secretary, State of Karnataka and others Vs. Umadevi (3) and others reported in (2006) 4 Supreme Court Cases 1*.

4.The Government previously appointed a person irregularly or illegally and thereafter, issued an order for regularization of service. The Hon'ble Apex Court viewed the said practises as fraud on Constitution and further stated that equal opportunity to all the eligible citizens of our great nation should be provided. When the Hon'ble Supreme Court has ruled that equal opportunity for public employment is a constitutional mandate and the competent authorities cannot engage persons on temporary basis and thereafter issue regularization. The said practises of the competent authorities are in violation of Article 14 and 16 of the Constitution of India. The Hon'ble Supreme Court time and again held that such practices of regularization or granting permanent absorption cannot be valid and all appointments are to be made only in accordance with the recruitment rules in force.

5.In the present writ petitions, admittedly, the writ petitioners were appointed on temporary basis on consolidate pay. The initial appointment of the writ petitioners were not made in accordance with the recruitment rules in force. Thus, the appointment was irregular and not in consonance with the rules in force. This being the factum of the case, this Court is not inclined to grant relief, in view of the legal principles settled



by the Constitution Bench of the Hon'ble Supreme Court of India in the case cited supra.

6. Accordingly, the writ petitions stand dismissed. However, there shall be no order as to costs.

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Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary,
The Government of Tamil Nadu,
Social Welfare and Noon Meal Department,
Fort St. George,
Secretariat,
Chennai - 600 009.

2. The Director of Social Welfare,
Chennai - 600 002.

3. The Instructor,
Block Project Nutritious Office,
Sakkottai at Karaikudi.

4. The Commissioner,
Sakkottai Panchayat Union,
Sakkottai,
Sivagangai District.

+1cc to M/s.P.Kalaiyarasi Bharathi, Advocate, SR.No.52772
+4ccs to The Special Government Pleader, SR.Nos.53671, 53610, 53622,
53623

mm

RL/7C/5P/KK/SAR1/28/4/2018

W.P. (MD) Nos.15199, 15201, 15215 and 15293 of 2013
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