



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.9859 of 2011

and

M.P. (MD) No.1 of 2011

S.Immanuvel Mouriya

...Petitioner

Vs.

1. The Registrar,
Manonmaniam Sundaranar University,
Tirunelveli.

2. The Convener Committee,
Manonmaniam Sundaranar University,
Tirunelveli.

3. The Secretary to Government,
Higher Education,
Secretariat,
Chennai - 9.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to follow the communal roster while appointment is made to the post of Assistant Lecturer (Tamil).

For Petitioner : Mr.N.Ananda Kumar

For R1 : Mr.M.Mahaboob Athiff

For R2 : Mr.Maheshkumaravel

For R3 : Mr.R.Sethuraman
Special Government Pleader

O R D E R

The relief sought for in this writ petition is to direct the first respondent to follow the communal roster while undertaking the process of selection and appointment to the post of Assistant Lecturer in Tamil.



2.The learned counsel appearing on behalf of the writ petitioner made a submission that the first respondent issued notification for recruitment to the post of Assistant Lecturer in Tamil on 04.08.2011, more specifically, on consolidated pay without following the communal roster. Thus, the writ petitioner is constrained to move the present writ petition. However, the recruitment notification was issued to appoint the persons only on consolidated pay and not on a regular basis in the regular time scale of pay. Even, in case of providing appointment on consolidated pay the rules relating to the reservation are to be followed and further it is made clear that the persons appointed contrary to the recruitment rules in force cannot be brought under the regular establishment and their services cannot be regularised. In other words, persons appointed temporarily or on consolidated pay without following the recruitment rules in force cannot be absorbed permanently nor their services can be regularised.

3.While undertaking the process of selection for appointment to the post of Assistant Lecturer in Tamil or as matter of fact to any other post in a cadre, the recruitment rules in force to be followed scrupulously and there cannot be any violation. Equal opportunity in public employment is the constitutional mandate. The University being a "State" has to follow the recruitment rules scrupulously. There cannot be any deviation and dilution in respect of following the recruitment rules in force. More specifically, the rules of reservation are provided in accordance with the constitutional mandate is prospective. This being the case, the authority competent cannot violate the same. Violating the recruitment rules would invalidate and nullify the process of selection itself and it is made clear that all appointments ought to be made in accordance with the rules and even when the circumstances arises to engage the employees on temporary basis or on consolidated pay the rules applicable to be followed. If any appointment is made contrary to the recruitment rules then such appointment cannot be regularised and the persons cannot be absorbed permanently.

4.With these above observations, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub Assistant Registrar

To

<https://hcservices.ecourts.gov.in/hcservices/>

The Secretary to Government,
Higher Education,



Secretariat,
Chennai - 9.

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