



## BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

W.P. (MD) Nos. 999 and 1000 of 2013

S.Govindan  
S.Venkaipuli

... Petitioner in W.P(Md)No.999 of 2013  
... Petitioner in W.P(Md)No.1000 of 2013

Vs.

1. The Secretary to Government,  
Municipal Administration and  
Water Supply Department,  
Fort St. George,  
Chennai - 600 009.
2. The Commissioner,  
Municipal Administration and Water Supply,  
Chepauk,  
Chennai - 600 005.
3. The Dindigul Municipality  
rep. by its Commissioner,  
Dindigul-624 001.
4. The Ottan Chathiram Municipality,  
rep. by its Commissioner,  
475, Palani Main Road,  
Ottanchattram,  
Dindigul District.

... Respondents in both wps.

**COMMON PRAYER** : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to appoint the petitioner on permanent basis in accordance with G.O.Ms.No.125, Municipal Administration and Water Supply Department, dated 27.05.1999, with effect from 27.05.1999 and on a consolidated pay for one year thereafter to place him in the time scale of pay at par with the other petitioners in W.P.No.37676 of 2004.  
In both wps;

|                 |                                                                                             |
|-----------------|---------------------------------------------------------------------------------------------|
| For Petitioner  | : Mr.N.Sudarsan                                                                             |
| For Respondents | : Mr.VPM. Vaishnavi G.A., for R1 and R2<br>Mr.P.Srinivas for R3<br>Mr.B.Jameel Arasu for R4 |

**COMMON ORDER**



respondents. However, it is an admitted fact that the writ petitioners were not appointed in accordance with the recruitment rules in force. In fact, the petitioners were engaged as contract employees and were allowed to continue in service.

2. The learned counsel for the petitioners states that the benefit of regularisation was granted to the similarly placed employees in G.O.Ms.No.125, Municipal Administration and Water Supply Department, dated 27.05.1999 and the High Court also passed number of orders granting the benefit of regularisation in respect of the similarly placed persons.

3. However, this Court is of an opinion that the Hon'ble Apex Court of India categorically enumerated that the past practice of granting regularisation by the Courts cannot be followed any further. The Hon'ble Supreme Court in para 5 of the Constitution Bench Judgment clarified that the Hon'ble Apex Court has also issued a direction granting the benefit of regularisation in many cases. However, those directions and Judgments cannot be followed and the Honourable Supreme Court has further emphasised that the legal principles settled in the case of **the Secretary, State of Karnataka and others .vs. Umadevi (3) and others** reported in **(2006) 4 Supreme Court Cases 1**, ought to be followed scrupulously. Para 54 of said case further enumerates that all Judgments rendered and running contrary to the legal principles settled by the Constitution Bench are denuded to loose its status as precedent. Thus, those judgments cannot be cited as precedent nor those judgments can be followed by the Court after the Judgment delivered by the Constitution Bench in **Uma Devi's** case.

4. However, the fact remains in the present writ petitions that the writ petitioners were not appointed in accordance with the recruitment rules in force and the appointments were irregular. The irregular appointment cannot be regularized nor the Government Order passed prior to the Judgment of **Uma Devi's** case can be adopted for the purpose of granting the benefit of regularisation in these writ petitions. Hence, these Writ Petitions are liable to be dismissed.

5. It is brought to the notice of this Court that the Government has extended the special time scale of pay in respect of the temporary employees. The temporary employees are granted special time scale of pay by virtue of Government Order. In this regard, these writ petitioners are at liberty to approach the appropriate authority by way of representation and in the event of receiving such representation, the competent authorities are bound to consider the same in accordance with the terms and conditions stipulated in the Government Order.

6. With the above observations, these writ petitions stand disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

/True Copy/



To

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Dindigul District.

+1cc to Mr.Ananth C.Rajesh Advocate in SR.NO.49248  
+1cc to Mr.Ananth C.Rajesh Advocate in SR.NO.49249  
+1cc to Mr.P.Srinivas Advocate in SR.NO.49508  
+1cc to Mr.B.Jameel Arasu Advocate in SR.NO.49697  
+1cc THE SPECIAL GOVERNMENT PLEDER Advocate in SR.NO.49674

SKN

MV:JC:SAR2:28/04/2018/3P/10C

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**16.02.2018**