

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.02.2019

CORAM

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

W.P.No.4396 of 2019

M.Jeyamurugan

..Petitioner

vs

1.The State of Tamil Nadu represented by its
Secretary to Government, Transport
Department, Fort St.George, Chennai - 600 009

2.The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Limited, 12, Ramakrishna Road
Salem - 636 007

3.The General Manager
Tamil Nadu State Transport Corporation
(Salem) Limited, 12, Ramakrishna Road
Salem - 636 007

..Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus,
directing the 2nd respondent to consider the petitioner's
representation dated 10/09/2018 within a period specified by
this Honorable Court by fixing his date of appointment to the
respondent corporation as 19/10/2007 or 12/01/2008 and provide
the consequential benefits.

For Petitioner : Mr.S.Balaji

For Respondents : Mr.R.S.Selvam, Government Advocate
for R1

M/s.Rajeni Ramadoss for R2 & R3

O R D E R

The relief sought for in the present writ petition is for a
direction to direct the 2nd respondent to consider the
petitioner's representation dated 10/09/2018 within a period
specified by this Honorable Court by fixing his date of
appointment to the respondent corporation as 19/10/2007 or
12/01/2008 and provide the consequential benefits.

2.The relief sought for in the present writ petition is misconceived on account of the fact that the writ petitioner claims retrospective appointment either with effect from 19.10.2007 or from 12.01.2008.

3.Admittedly, the writ petitioner was initially engaged as daily wage employee. Subsequently, the services of the writ petitioner has been regularized with effect from 01.08.2014 onwards. Thereafter, the writ petitioner is serving as a regular employee in the sanctioned post. The writ petitioner now claims that he must be granted with the retrospective regularization either from the year 2007 or from the year 2008. Such a retrospective regularization is impermissible in view of the fact that the writ petitioner was engaged as daily wage employee and accepting the terms and conditions of the employment, the writ petitioner served and the regularization was granted to him only with effect from 01.08.2014 and this apart, the regularization or permanent absorption cannot be granted contrary to the recruitment rules in force. The said legal principles well settled by the Constitution Bench of the Hon'ble Supreme Court of India in the case of in the case of The State of Karnataka Vs Umadevi, reported in 2006 4 SCC Page No.1.

4.Therefore, the writ petitioner cannot claim retrospective regularization nor filed the present writ petition for a direction to consider the representation. Even to issue a direction to consider the representation, it is a pre-condition that the person, who is approaching the Court, must establish his legal right. In the absence of any such legal right, Courts would not be in a position to issue such a direction to the respondents.

5.In the present case on hand, the very claim set out in the present writ petition is untenable and therefore, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government, Transport
Department, Fort St.George, Chennai - 600 009

2. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Limited, 12, Ramakrishna Road
Salem - 636 007

3. The General Manager
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+1 cc to M/s.S.Balaji, Advocate, S.R.No.14456

+1 cc to M/s.Rajeni Ramadoss, Advocate, S.R.No.14275

+1 cc to the Government Pleader, S.R.No.14581

W.P.No.4396 of 2019

PPA(CO)
SSM(11/03/2019).



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