



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 10.06.2019**

**CORAM**

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

**W.P[MD]No.9821 of 2013**

**and**

**M.P.[MD]Nos.1 & 2 of 2013 & 11995 of 2013**

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D.Senthilkumar

: Petitioner

Vs.

- 1.The Government of Tamil Nadu,  
Rep. by its Principal Secretary,  
Health and Family Welfare Department,  
Fort St. George, Chennai - 600 009.
- 2.The Director of Public Health and Preventive Medicine,  
No.359, Anna Salai, D.M.S. Campus,  
Teynampet, Chennai - 600 006.
- 3.The Additional Director of Medical and  
Rural Health Services (Leprosy),  
No.359, Anna Salai, D.M.S. Campus,  
Teynampet, Chennai - 6.
- 4.The Deputy Director of Medical Services (Leprosy),  
5/1, V.O.C. Road, T.B. Hospital Campus,  
Tiruchirapalli - 620 015.
- 5.The District Collector,  
Chair Person cum District Collector,  
District Health Society,  
Periyamelaguparai,  
Tiruchirapalli - 620 001.

: Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings Ref.No./381/E/2013 dated 31.05.2013 issued by the fourth respondent and quash the same and directing the first respondent to pass orders regularizing the services of the petitioner on the basis of the proceedings in e.f.No.16092/G/dated 08.05.2012 of Health and Family Welfare Department, Secretariat.

For Petitioner

: Mr.A.Rahul

For Respondents

: Mr.D.Muruganantham

Additional Government Pleader



**O R D E R**

The writ petitioner was engaged as Jeep driver in the Leprosy Division of the fifth respondent District Health Society. The District Collector is the Chair person of the District Health Society, which is a scheme introduced by the Government. Under the Scheme, certain employees were engaged on contract basis to do menial service. The writ petitioner was engaged as jeep driver in the leprosy division and was working under the scheme for about 4 ½ years. The writ petitioner was paid salary by way of daily wages and the petitioner states that he is entitled to be regularised in the sanctioned post in the regular time scale of pay. It is contended that the names of similarly placed persons were considered and proposals were also sanctioned for grant of regularisation.

2.This Court is of the opinion that regularisation cannot be in violation of the rules in force. All appointments to the regular sanctioned post are to be made only in accordance with the rules in force and by providing equal opportunity to all the candidates, who are all aspiring to secure public employment. Thus, the persons employed on daily wages basis cannot seek the benefit of regularisation or permanent absorption.

3.In the present case, admittedly, the writ petitioner was appointed as daily wage driver. Further, he was relieved for want of vacancy in proceedings dated 31.05.2013. The order of relieving states that the writ petitioner was relieved from duty on account of want of vacancy. This being the administrative exigency, there is no infirmity as such in respect of the order of ousting, passed by the competent authority in proceedings dated 31.05.2013. If at all the writ petitioner wants to secure public employment, he has to secure by participating in the process of selection at the time of issuance of the recruitment notification by the competent authorities. Mere length of service as daily wages employee in a scheme would not confer the right on the writ petitioner to secure public employment by filing writ petition.

4.Under these circumstances, this Court is of the considered opinion that the writ petitioner is not entitled for regularisation or permanent absorption or reinstatement, in view of the legal principles settled by a Constitution Bench in the case of **Secretary, State of Karnataka and others Vs. Umadevi and others** reported in **(2006) 4 SCC 1**. The legal position was reiterated in the subsequent judgments of the Apex Court. This being the legal principle settled, the writ petitioner has not established any acceptable grounds.



5. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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// True Copy //

Sub Assistant Registrar (CS )

MR

To

1. The Principal Secretary  
Government of Tamil Nadu,  
Health and Family Welfare Department,  
Fort St. George, Chennai - 600 009.
2. The Director of Public Health and Preventive Medicine,  
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+1 CC to SPL GP ( SR-67846[F] dated 11/06/2019 )

+1 CC to MR.A.RAHUL, Advocate ( SR-67796[F] dated 11/06/2019 )

**W.P[MD]No.9821 of 2013**

**10.06.2019**

**(1/2)**

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MK (11.12.2019) 3P 8C