

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.378 of 2020

and

WMP No.430 of 2020

Dr.P.Selvakumar

... Petitioner

.Vs.

1.The Reserve Bank of India,
Rep.by Regional Director,
Regional Office,
No.16, Fort Glacis,
Rajaji Salai,
Chennai 600 001.

2.The Chief General Manager,
Human Resource Management Department,
Reserve Bank of India,
Central Office,
Sahid Bharath Singh Road,
Mumbai.

3.The General Manager,
Department of Human Resource
Management Department,
Reserve Bank of India,
Chennai 600 001.

4.The Assistant General Manager (Admin),
Department of Administration
and Personnel Management,
Reserve Bank of India,
Chennai 600 001.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 4th respondent in connection with the order passed by him in his online notification dated 05.12.2019 and quash the same to the extent of calling for fresh candidates for the post held by the petitioner also and direct the respondents to regularize the service of the petitioner in the post of Medical Officer with

all monetary and service benefits with effect from the date of completion of 10 years of service.

For Petitioner : Mr.M.Rajamani

For Respondents : Mr.Chevanan Mohan
for M/s.King & Partridge

O R D E R

The present writ petition has been filed challenging the Notification issued by the 4th respondent dated 05.12.2019, and for a direction to the respondents to regularize the services of the petitioner in the post of Medical Officer.

2.The case of the petitioner is that he was selected to the post of Medical Consultant by the Reserve Bank of India in the year 2009. The petitioner was appointed on a contractual basis and his services were extended from time to time. The 4th respondent issued a Notification on 03.12.2019, inviting applications from the candidates for the very same post. The petitioner also applied for the selection conducted by the 4th respondent. However, the petitioner has chosen to challenge the Notification mainly on the ground that the petitioner ought to have been considered for regularization and the Reserve Bank of India cannot be permitted to make a fresh recruitment of the very same nature of appointment and this will result in hire and fire policy.

3.The learned counsel appearing on behalf of the petitioner submitted that the petitioner has put in nearly 10 years of service from the year 2009 onwards and every time his services were extended for one year on contractual basis. The learned counsel further submitted that the petitioner ought to have been considered for regularization since the services of the petitioner was regularised on a regular basis and one temporary employee cannot be replaced by another temporary employee. The learned counsel in order to substantiate his submission, relied upon the judgment of the Hon'ble Supreme Court in Piara Singh .vs. State of Punjab reported in [1969 1 SCC 379].

4.The learned Standing Counsel appearing on behalf of the Reserve Bank of India submitted that the petitioner has participated in the selection that was conducted by the 4th respondent on 07.01.2020. Therefore, the learned counsel submitted that the petitioner cannot be permitted to turn around and challenge the same Notification. The learned counsel further submitted that the Reserve Bank of India scrutinized the

applications of all the candidates and has also conducted an interview and based on the same, five Doctors have been selected. The learned counsel submitted that admittedly the nature of employment was on a contract basis and the petitioner is bound by the terms of contract and therefore, the petitioner is not entitled for being considered for regularization. Therefore, the learned counsel submitted that the present writ petition is liable to be dismissed.

5.This Court has carefully considered the submissions made on either side and the materials available on record.

6.It is seen from records that have been placed before this Court that the employment of the petitioner is clearly contractual in nature and it is subject to an agreement that has been entered into between the parties. The contract itself provides that the employment is temporary and no claim will be made for regularization of the employment. The petitioner was aware about the same and he had accepted the contract and the terms of the contract. Insofar as the contractual employment is concerned, the law is well settled to the effect that the renewal of a contract or issuance of a fresh contract will depend upon the perception of the management as to the usefulness of the employee and employment which is purely based on a contract basis can never be subjected to a judicial review unless there is a termination which suffers from malafides or arbitrariness or it is irrational or unreasonable. Useful reference can be made to the judgment of the Hon'ble Supreme Court in GRIDCO Limited and Another .v. Sri Sadananda Doloi and Others reported in [2012 2 MLJ 998]. This judgment has been followed by the Division Bench of this Court in a recent judgment in The Manager (Administration and Personnel) Footwear Design and Development, Institute Ministry of Commerce and Industry Government of India, Noida Uttar Pradesh & Another reported in [2020 1 LW 97]. In the present case it is not even the grievance of the petitioner that he has been terminated from services. The period for which the petitioner was employed by the Reserve Bank of India has come to an end and thereby the relationship between the Reserve Bank of India and the petitioner got automatically snapped. The terms of the contract also does not entitle the petitioner to be considered for regularization.

7.In the present case, the petitioner has also participated in the process of selection that was conducted by the Reserve Bank of India. It is a settled position of law that once a person has participated in a selection process, he cannot turn around and challenge the very Notification through which he participated in the selection. This principle has evolved on the principle of estoppel. An useful reference can be made to

the judgment of the full Bench in Dr.R.Murali .v. Dr.R.Kamalakkannan and three Others reported in [2000 1 MLJ 1]. The petitioner having participated in the selection process, is estopped from questioning the Notification issued by the 4th respondent.

8.In view of the above discussion, this Court does not find any merits in this writ petition. As a subsequent development, already five Doctors have been selected by the Reserve Bank of India and therefore, no relief can be granted to the petitioner in this Writ Petition.

Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

KP

To

1.The Regional Director,
Reserve Bank of India,
Regional Office,
No.16, Fort Glacis,
Rajaji Salai,
Chennai 600 001.

2.The Chief General Manager,
Human Resource Management Department,
Reserve Bank of India,
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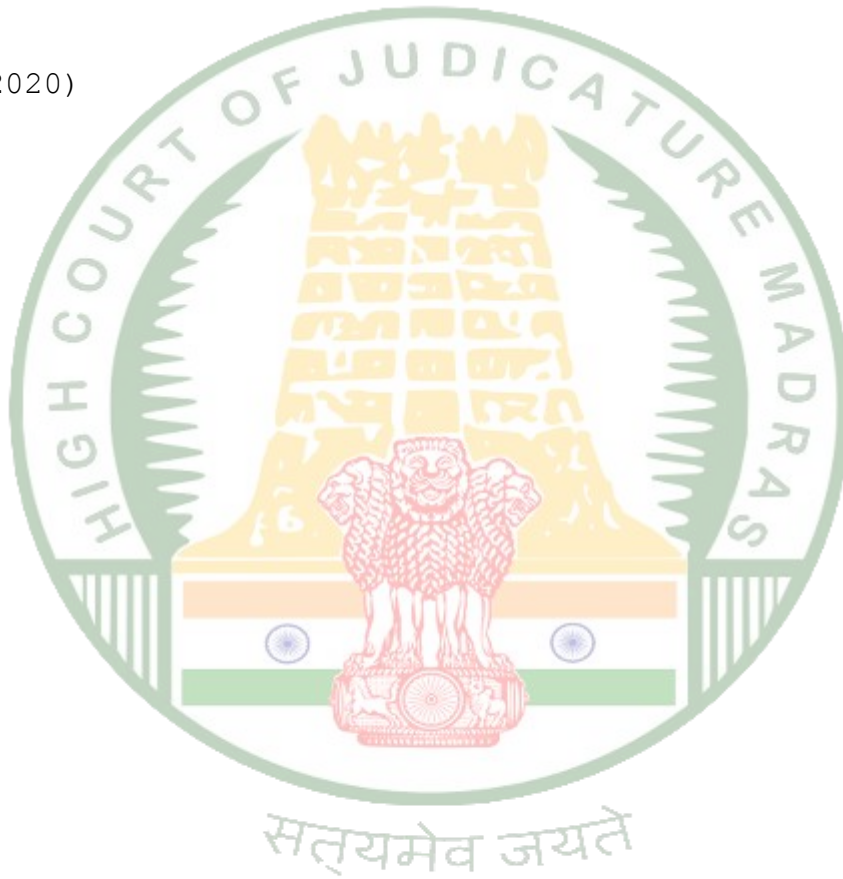
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Chennai 600 001.

+1cc to Mr.M.Rajamani, Advocate, S.R.No. 3717
+1cc to Mr.King & Partridge, Advocate, S.R.No. 3991

W.P.No.378 of 2020

VD(CO)
GN(27/02/2020)



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