

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2020

CORAM

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.P.No.13842 of 2006(T)
(O.A.No.995 of 1993)

Sageer Sirajudeen ... Petitioner

Versus

1.State of Tamil Nadu
represented by
The Director of College Education,
Madras - 600 006.

2.The Principal,
His Highness Raja's College,
Pudukottai.

3.Annadurai ... Respondents

Prayer: The Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus to set aside the orders in O.M.No.90147/A2/91 dated 04.01.1993 and N.K.No.2196/90, dated 25.11.1991 passed by the first and second respondents respectively and direct the first respondent and second respondent to reinstate the applicant in service with effect from 26.11.1991 with back wages and all other attendant benefits award Cost.

For Petitioner : Ms.S.Jothivani

For Respondents : Mr.K.Magesh
Special Government Pleader
for R1 & R2

O R D E R

The writ petition has been filed to set aside the orders of the respondents 1 and 2 dated 04.01.1993 and 25.11.1991, respectively and to direct the respondents 1 and 2 to reinstate the petitioner in service with effect from 26.11.1991 with back wages and all other attendant benefits.

2. According to the petitioner, he was appointed as a Lab Assistant on temporary basis on 21.10.1991 under Rule 10(a)(i)(1) of Tamil Nadu State and Subordinate Service Rules and he was terminated from service on 25.11.1991. Hence, this writ petition.

3. The learned counsel for the petitioner would submit that the petitioner was appointed as a Lab Assistant in the vacant post which has arisen in the 2nd respondent College and he is eligible for the said post. Therefore, the termination is illegal and the same is liable to be set aside.

4. The learned Special Government Pleader appearing for the respondents 1 and 2 would submit that the petitioner's appointment was purely on temporary basis and the person who was appointed under Rule 10(a)(i)(1) of Tamil Nadu State and Subordinate Service Rules cannot be claimed his appointment as a matter of right and hence, the writ petition is liable to be dismissed.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents 1 and 2 and also perused the materials available on record.

6. Admittedly, the petitioner was appointed as a Lab Assistant on 21.10.1991 under Rule 10(a)(i)(1) of Tamil Nadu State and Subordinate Service Rules and subsequently, he was terminated on 25.11.1991 i.e. next month itself. Rule 10(a)(i)(1) provides for making of temporary appointments, when it is necessary in the public interest to do so owing to an emergency which has arisen for filling a vacancy immediately and the person appointed under the said rule cannot be sought such appointment as a matter of right as it is purely a temporary in nature. Such being the legal position, since the appointment of the petitioner is purely on temporary basis, he cannot seek the same as a matter of right. Hence, the relief sought for herein cannot be considered by this Court.

7. Therefore, the writ petition deserves to be dismissed and is accordingly, dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

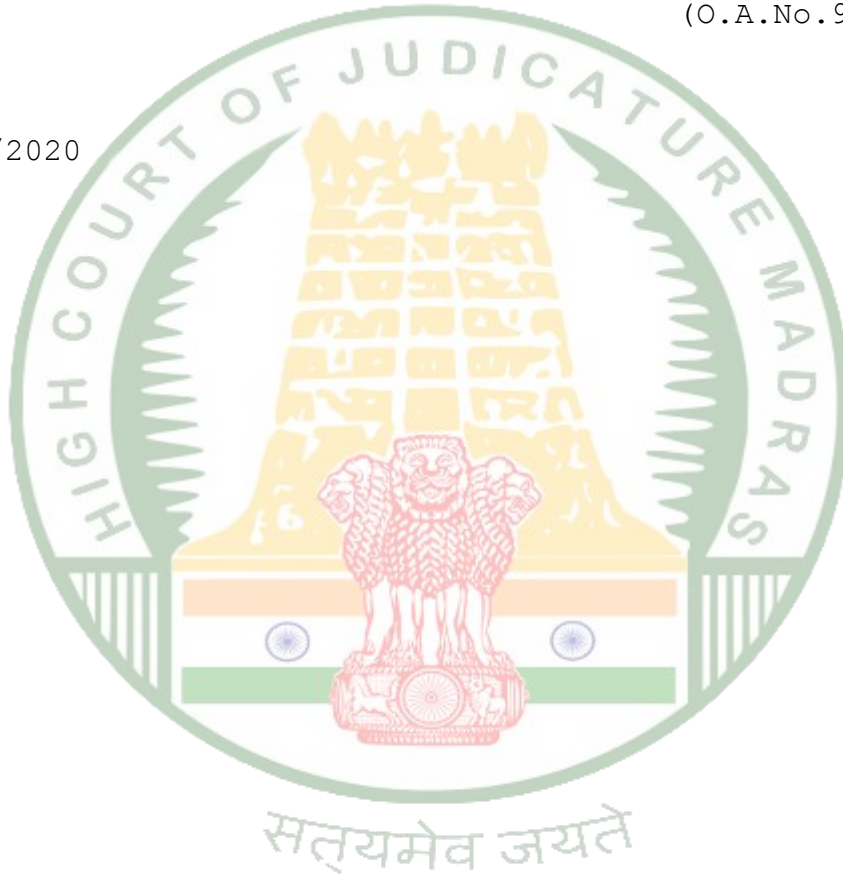
To

The Director of College Education,
State of Tamil Nadu,
Madras - 600 006.

+1cc to Mr.S.S.Jothivani, Advocate Sr.33387
+1cc to the Government Pleader Sr.33710

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