



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.2420 of 2010

and

W.M.P (MD) .No.258 of 2017

WEB COPY

S.Arumugam
2.A.Pandi
3.S.Harichandran
4.J.Jaffer
5.V.Muthumari
6.K.Velmurugan

... Petitioners

-Vs-

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai 600 009.
2.Director of Municipal Administration,
Chepauk, Chennai.
3.The Commissioner,
Madurai City Municipal Corporation,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to confirm the petitioners in the post of Conservatory Inspector with effect from their respective dates of appointment in the said post with appropriate service benefits including higher pay, if necessary, by relaxing the relevant rules.

For Petitioners	: Mr.B.Rajesh
For Respondents	: Mr.S.Dhayalan
	Government Advocate
for R1 & R2	Mr.R.Murali
	for R3

ORDER

The relief sought for in the present writ petition is for a direction to the respondents to confirm the petitioners in the post of Conservatory Inspector with effect from their respective dates of appointment in the said post with appropriate service benefits including higher pay, if necessary, by relaxing the relevant Rules.

2.The learned counsel appearing for the petitioner states that all the petitioners have joined in the third respondent Corporation as Conservatory Inspector. The grievances of the writ petitioners are that they are working continuously as Conservatory Inspectors on work charged basis and their services are not confirmed for many years. Thus, the petitioners are constrained to move this present writ petition.

3.The learned counsel for the petitioners reiterated that the petitioners are entitled to be regularised in view of the fact that they are fully qualified for appointment to the post of



Conservatory Inspector and they are continuously serving in the third respondent Corporation for more than six years.

4.The learned counsel appearing on behalf of the third respondent Corporation states that the petitioners are not qualified. They are working on work charged basis and they are not entitled to be regularised in the permanent post. Thus, the writ petition is liable to be dismissed.

5.Regularization or permanent absorption cannot be granted in violation of the Rules in force. Mere long services would not entitle an employee to get regularization or permanent absorption. Equal opportunity in public employment is the constitutional mandate. Appointments are to be made strictly in accordance with the Rules and by conducting the process of selection and by implementing the Rules and Regulations. Thus, all appointments are to be made strictly in accordance with law and mere continuous on temporary basis or on work charged basis are not a ground to claim regularization or permanent absorption. Such appointments is made undoubtedly as a backdoor appointment as held by the Constitution Bench of the Hon'ble Supreme Court of India in the Case of **Secretary, State of Karnataka and others Vs., UmaDevi (3) and others** reported in (2006) 4 Supreme Court Cases 1. Therefore, the competent authorities are bound to make appointment only in accordance with the Service Rules in force and by providing equal opportunity to all the eligible persons, who are all aspiring to secure public employment.

6.In the present case, admittedly, the writ petitioners were not appointed through the selection process. The writ petitioners are working as Conservator Inspector on work charged basis. Thus, they have no right to claim confirmation or regularization. If at all the petitioners are fully qualified, then they are at liberty to participate in the process of selection, whenever the recruitment notification is issued and the case of the petitioners is also to be considered along with all other candidates in accordance with Rules in force.

7.With these observations, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSIII)

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/ /2020

Sub Assistant Registrar(CS)

rmk

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To

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George, Chennai 600 009.

2.The Director of Municipal Administration,
Chepauk, Chennai.

3.The Commissioner,
Madurai City Municipal Corporation,
Madurai.

+1 CC to M/s.R. MURALI, Advocate (SR-19670[F] dated 09/10/2020)

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SSS(CO)

KB(16.10.2020) 3P 5C