



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.10928 of 2015

and

M.P (MD)No.1 of 2015

WEB COPY

A.Vijayalakshmi

... Petitioner

-Vs-

The Administrative Officer/
Deputy Collector,
Tamil Nadu State Institute of Hotel Management
and Catering Technology,
Thuvakkudi (Po),
Tiruchirappalli-620 015.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for all the relevant records pertaining to the impugned order dated 11.11.2014 and quash the same and further direct the respondent to reinstate the petitioner in service and regularize her service retrospectively with all consequential service benefits.

For Petitioner : Mr.R.Narayanan

For Respondent : Mr.D.Muruganandham

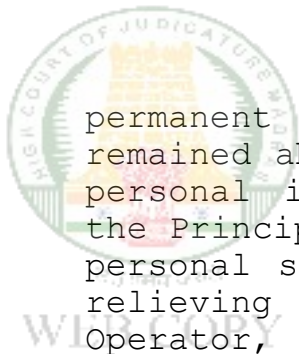
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to quash the order dated 11.11.2014 passed by the respondent rejecting her claim seeking reinstatement and regularisation.

2.The petitioner states that she was appointed as Data Entry Operator with effect from 03.11.2003 in the respondent institute. She was appointed on consolidated pay of Rs.1500 per month and the pay was increased from time to time and the petitioner lastly was receiving a sum of Rs.7,000/- as consolidated pay. The employees provident fund contribution was also recovered from the salary of the petitioner. 26 temporary employees were working in the respondent institute and the petitioner states that she is the seniormost amongst the temporary employee. The petitioner is fully qualified for regular appointment to the post of Data Entry Operator. In view of the fact that she was discharged from service, the present writ petition is filed.

3.The learned Additional Government Pleader appearing on behalf of the respondent states that the petitioner was appointed on temporary basis on consolidated pay and no appointment order was issued. Therefore, she has no right to claim any regularisation or



permanent absorbtion. He further states that the petitioner remained absent and she did not attend duty after 31.10.2014 due to personal inconvenience. Further, the petitioner herself requested the Principal orally to relieve her from 01.11.2014. In view of the personal submission made, the Principal also relieved her. Before relieving the petitioner assigned her work to another Data Entry Operator, namely, Smt.S.Akila. Therefore, there is no infirmity with reference to the order impugned and the petitioner herself voluntarily left the job. The respondent is a institute, which is registered under the Societies Registration Act. However, it is jointly funded by the Government of India and the Government of Tamil Nadu.

4.This Court is of the considered opinion that it is an admitted fact that no order of appointment was issued. Further, the petitioner was engaged as a temporary employee on consolidated pay. She was relieved from service at her request and thereafter she has not turned back and filed the writ petition. The temporary employee who left the job cannot seek any regularisation as there is no valid appointment order exist.

5.All appointments are to be made strictly in accordance with the Rules in force. If a temporary employees continues, then, the employee whose appointment is irregular or illegal cannot claim permanent absorbtion. 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**, settled the legal principles that irregular or illegal appointments cannot be a ground to seek regularisation or permanent absorbtion. Back door appointments are to be stopped at once. Equal opportunity in public employment is the constitutional mandate. Thus, the appointments are to be made by conducting the process of selection through open competitive process.

6.This being the principles to be followed, the petitioner was engaged as a temporary employee on consolidated pay and left the services at her own request. Now, she cannot file a writ petition and seek for the relief of reinstatement and regularisation. This being the factum, the petitioner is not entitled for the relief and accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



The Administrative Officer/
Deputy Collector,
Tamil Nadu State Institute of Hotel Management
and Catering Technology,
Thuvakkudi (Po),
Tiruchirappalli-620 015.

+1 CC to M/s.T.BANUMATHI, Advocate (SR-25048[F] dated 11/12/2020)

+1 CC to SGP (SR-25117[F] dated 11/12/2020)

W.P. (MD) .No.10928 of 2015

09.12.2020

MJ(CO)

NR (22/12/2020) 3P : 4C