



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.12391 and 12392 of 2015

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1.V.Shanmugam
2.R.Somasundaram

... Petitioner in W.P(MD)No.12391/15
... Petitioner in W.P(MD)No.12392/15

-Vs-

The Registrar,
Tamil University
Thanjavur-613010

...Respondent in both cases

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Declaration, declaring that the action of the respondent University in not regularizing the petitioners services on par with and from the date on which other similarly placed employees were regularized and regularizing the petitioners services only with effect from 19.05.2006 as illegal, arbitrary and discriminatory and consequently, directing the respondent to regularize the petitioners services with time scale of pay and all other consequential benefits from the date on which the other similarly placed persons were regularized, award costs.

For Petitioners in
both W.Ps : Mr.M.Karunanithi

COMMON ORDER

The relief sought for in these writ petitions is to declare that the action of the respondent/University in not regularizing the services of the petitioners on par with from the date on which other similarly placed employees were regularized as null and void and regularizing the services of the petitioners from the date of initial engagement.

2.The petitioners were appointed as temporary daily wage employees in the year 1984. Subsequently, they were brought under the consolidated pay scheme.

3.The learned counsel appearing for the petitioners states that the nature of job is permanent and in spite of the fact that the petitioners were initially engaged as daily wage employees and subsequently, consolidated pay was paid.

4.The grievance of the writ petitioners is that the services of other similarly placed employees were regularized and their cases were not considered for grant of regularization. However, the Government issued an Order in G.O.Ms.No.214, dated 21.08.1997 granted approval for regularization of the services of all the 84



Group-D Non-teaching staff and few employees, who have completed the required number of services were brought under the regular establishment. Accordingly, 51 persons were regularized in the sanctioned post.

5.The contention of the petitioners is that the Government granted permission, however, the University has not regularized the services of the other employees. However, after a prolonged period, the services of the writ petitioners were regularized with effect from 19.05.2006 along with other 23 consolidated pay employees. Thus, the petitioners are constrained to move these writ petitions seeking the relief of retrospective regularization from the date on which they were initially engaged as daily wages on par with other employees were regularized from the year 1997.

6.This Court is of the considered opinion that regularization or permanent absorption cannot be claimed in violation of the service rules in force. All appointments are to be made strictly in accordance with the rules in force. Admittedly, the writ petitioners were engaged as daily wage employees and subsequently, consolidated pay was paid. The Government has passed an Order granting concession to these temporary employees and on relaxing certain conditions permitted the University to regularize the services. Accordingly, the employees, who have completed 6 years of service under consolidated pay were granted the benefit of regularization. After a prolonged period, the petitioner along with other 23 employees were not granted the benefit, subsequently on completion of six years of service, the cases of the petitioners along with other 23 employees were considered and the services of the writ petitioners were regularized with effect from 19.05.2006.

7.Granted regularization in violation of the service rules. Regularization cannot be claimed as a matter of right, in the absence of establishing that the initial appointments were made in accordance with the rules in force and by conducting selection process. In the present case, the petitioners are not able to establish that they were initially engaged by way of selection contrarily, they were engaged as daily wage employees. Thus, the regularization granted to the writ petitioners is a concession extended and therefore, retrospective regularization cannot be granted. The legal principles, in the matter of regularization and permanent absorption, are now settled by the Constitution Bench of the Hon'ble Supreme Court of India in the case of ***the Secretary, State of Karnataka and others .vs. Umadevi(3) and others reported in (2006) 4 Supreme Court Cases 1***. Accordingly, the retrospective regularization of irregular appointment is impermissible. The appointments of the writ petitioners were irregular.

8.Thus, the regularization granted itself is a concession and therefore, this Court cannot extend any further concession by



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granting the relief of retrospective regularization. In this view of the matter, the petitioners are not entitled for the relief and accordingly, these writ petitions stand dismissed. No costs.

Sd/-

Assistant Registrar (AE)

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Sub Assistant Registrar(CS)

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To
The Registrar,
Tamil University
Thanjavur-613010

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MJ (CO)

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