



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.13614 of 2015

and

M.P (MD) .Nos.2 and 3 of 2015

WEB COPY

S.Yesu Rathinam

... Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Commissioner
Killiyur Panchayat Union,
Killiyur,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the notification in Na.Ka.No.A1/498/2015-1 dated 13.07.2015, quash the same as illegal and consequently, directing the respondents to absorb the petitioner in the post of Office Assistant in the 2nd respondent Panchayat.

For Petitioner : Mr.D.Anbarasu

For Respondents : Mr.S.Dhayalan

Government Advocate

ORDER

The recruitment notification issued by the second respondent to fill up the post of Office Assistant in publication dated 13.07.2015, is under challenge in the writ petitioner.

2.The petitioner is working as a temporary Water Supply Attender on daily wages and salary is paid to the petitioner. The claim of the writ petitioner is that his service must be regularized in the sanctioned post. The petitioner relies on the Government Order issued in G.O.Ms.No.22 Personnel and Administrative Reforms Department, dated 28.02.2006, which is beyond the claim of the writ petitioner for regularization of the service. Now changed the recruitment notification issued to fill-up the Office Assistant, which is no way connected with the benefit of regularization now claimed by the writ petitioner.

3.Regularization or permanent absorption cannot be granted in violation of the Rules in force. The petitioner was not appointed by following the selection procedures and the rules in force. Thus,



the irregularities occurred in the initial appointment cannot be concluded at all. The petitioner has to participate in the process of selection if any conducted for seeking permanent absorption. Mere length of service in daily wage employment would not provide any right to the employment is to permanent absorption. 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***, has settled the principles by stating that the irregular or illegal appointments cannot be a ground to grant regularization or permanent absorption. This apart, the recruitment notification now under challenge is no way connected with the claim of the writ petitioner for regularization. However, the recruitment notification was issued on 13.07.2015 and now after a lapse of 5 years no further interference is required, as far as the recruitment notification is concerned. Regarding regularization, the petitioner has not entitled for the same in view of the Hon'ble Supreme Court cited supra. If at all he wants to secure permanent absorption, he can participate in the process of selection, if any notified by the competent authorities.

4. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The District Collector,
Kanyakumari District,
Nagercoil.

2. The Commissioner
Killiyur Panchayat Union,
Killiyur,
Kanyakumari District.

+1 CC to SPL GP (SR-23901[F] dated 03/12/2020)

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