



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.18168 of 2015

and

M.P.(MD)No.2 of 2015

WEB COPY

- 1.K.Sivakami
- 2.S.Karpagam
- 3.S.Meenakshi
- 4.K.Sivasamy
- 5.M.Pandiarajan
- 6.S.Pandi

... Petitioners

-Vs-

- 1.The Gandhigram Institute of Rural Health and Family Welfare Trust, Soundaram Nagar, Gandhigram Post, Dindigul District, Represented by its Chairman.

- 2.The Director (incharge), The Gandhigram Insitute of Rural Health and Family Welfare Trust, Soundaram Nagar, Gandhigram Post, Dindigul District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to regularize the services of the petitioners as Basic Servant in the first respondent institute from the date of their initial appointment with all monetary and attendant benefits.

For Petitioner	: Mr.C.Jegannathan
For Respondents	: Mr.V.Vijay Shankar

ORDER

The relief sought for in the present writ petition is to direct the respondents to regularise the services of the petitioner as Basic Servant in the first respondent Institute from the date of their initial appointment with all monetary and attendant benefits.

2.The petitioners state that they are the residents of the adjacent to Gandhigram. All the petitioners appointed as daily wage employees on various dates from 2005-2013. The daily wage salary is paid as per the fixation made by the District Collector, Dindigul, as applicable to the daily wage employments. The contentions of the petitioners are that they are continuously employed for about 7 to 10 years and except the artificial break.

3.The learned counsel for the petitioners states that in view of the fact that all the petitioners are working as temporary daily wage employees for more than 7 years, their service sought to



be regularised. During the year 2013, certain employees were already relieved from daily wage employment.

4. Be that as it may, this Court is of the considered opinion that the regularisation or permanent absorption cannot be granted in violation of the Service Regulation in force. The respondent Gandhigram Institute of Rural Health and Family Welfare Trust is the Central Government Organisation and therefore, service regulations are available. The benefit of regularization cannot be granted in violation of the Service Regulation.

5. All the appointments to the public posts are to be done strictly in accordance with the recruitment Rules in force. Equal opportunity in employment is the Constitutional mandate. Irregular or illegal appointment cannot be regulated nor the benefit of regularization be granted. The legal principles in this regard are settled by the Constitution Bench of the Hon'ble Supreme Court of India in the case of **Umadevi Vs., State of Karnadaka** reported in (2006) 4 SCC 1. This apart, in the case of **R. Govindasamy**, the Hon'ble Apex Court of India held that the High Court cannot issue any direction granting the benefit of regularisation or permanent absorption under Article 226 of the Constitution of India. The regularization is to be granted strictly in accordance with the Rules and the directions sought for to grant regularisation in a writ proceedings cannot be ordered by the High Court. The Hon'ble Apex Court in clear terms states that the High Court cannot issue any direction at all. This being the principles is settled, this Court is of the considered opinion that the benefit of regularization cannot be granted in violation of the Rules and temporarily daily wage employment would not provide any legal right for the labourers to claim regularization or permanent absorption in violation of the Service Regulations.

6. This being the principles, the relief as such sought for in the present writ petition cannot be granted. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

Rmk

+1CC to V.Karthikeyan, Advocate, SR.No.26416 dated 21/12/2021

W.P. (MD) .No.18168 of 2015

18.12.2020

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