



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.22591 of 2015

M.Vijayan

... Petitioner

Vs.

The Commissioner,
Dindigul Corporation,
Dindigul.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.11361/2011 dated 06.07.2015, issued by the respondent and quash the same as illegal and reinstate the petitioner in the respondent office with the consequential benefits.

For Petitioner : Mr.K.Venkatesan

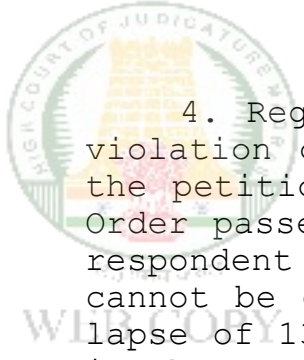
For Responden : Mr.J.Lawrance

O R D E R

The relief sought for in the present Writ Petition is to quash the order dated 06.07.2015 and direct the respondent to reinstate the petitioner and pay the consequential benefits.

2. The petitioner states that he was engaged as daily wage employee from the year 1995 to 2002 and more specifically, he was working as Store Keeper in Dindigul Bus Stand. The grievances of the writ petitioner is that the Government passed an order in G.O. (Ms)No.21, Municipal Administration and Water Supply Department, dated 02.03.1998 and even before that G.O.(Ms)No.125, dated 25.07.1999 was passed to regularize the services of the daily wage employees. Thus, the case of the writ petitioner is also to be considered for grant of regularization.

3. The learned counsel for the respondent opposed the contention by stating that the writ petitioner is not entitled for the relief, as he served as a daily wage worker from 1995 to 2002. Thereafter, he has not served in the respondent Corporation. Even during the year 1995 to 2002, the petitioner had not worked continuously for a period of 89 days in one year. Therefore, his claim is baseless. The learned counsel for the respondent states that the petitioner is now aged about 60 years and the relief of regularization cannot be granted.



4. Regularization or permanent absorption cannot be granted in violation of the Rules in force. Even as per the impugned order, the petitioner was not in service as on the date of the Government Order passed in G.O.(Ms)No.21, dated 02.03.1998 and therefore, the respondent has taken a decision that the benefit of regularization cannot be granted. Further, the petitioner made his claim after a lapse of 13 years, as he was discontinued from temporary employment in the year 2002 onwards.

5. The legal principles for grant of regularization and permanent absorption are now settled by the Constitutional Bench of the Hon'ble Supreme Court of India in the case of **Umadevi Vs. State of Karnataka** reported in **(2006 (4) SCC 1)**. Irregular appointments cannot be regulated by granting the benefit of regularization. Admittedly, the petitioner was engaged as daily wage employee and served till the year 2002. Now the Writ Petition itself is filed after a lapse of many years. The impugned order was issued by the respondent pursuant to the direction passed by this Court in W.P(MD) No.4991 of 2015 dated 01.04.2015, directing the respondent to consider the representation. Thus, by submitting the representation after a lapse of 12 years, the writ petitioner filed the Writ Petition seeking a direction to consider the representation and restored the lapsed cause of action so as to adjudicate the issues on merits.

6. Lapsed cause of action cannot be restored after many years. The recent trend of restoring such lapsed cause of actions by sending a representation to the Authorities by filing a Writ Petition to consider the representation is to be considered as a bad proposition and the Court cannot issue such direction to consider the representation, if the writ petitioner could able to establish his right for the remedy to be granted under Article 226 of the Constitution of India. Thus, the manner in which the dead cause of actions are restored for the purpose of adjudication is to be cautiously looked into by the Courts and the litigant should not be permitted to knock the doors of the Courts after many years from the time of cause of action. The Principle of Reasonableness in the matter of approaching the Court is to be adopted even while entertaining the Writ Petition under Article 226 of the Constitution of India.

7. In the present Writ Petition, the petitioner served as a daily wage employee till 2002 and he sent representation in the year 2014, filed the Writ Petition in the year 2015 and after getting the impugned order filed the present writ petition for adjudication. Even on merits, applying the principles of the Constitutional Bench of the Apex Court of India, in the case of **Umadevi**, the benefit of regularization or permanent absorption cannot be granted to the writ petitioner.



8. For all these reasons, this Court do not find any merit in the present Writ petition and accordingly, stands dismissed. No costs.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

MPK

To

The Commissioner,
Dindigul Corporation,
Dindigul.

+1 CC to Mr. J. LAWRENCE, Advocate (SR-25686[F] dated 16/12/2020)

+1 CC to Mr. R. VENKATESAN, Advocate (SR-25835[F] dated 16/12/2020)

W.P. (MD) No. 22591 of 2015
15.12.2020

VB (23.12.2020) 3P 4C