



WEB COPY

WP(MD) No.6980 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2020

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THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P. (MD) No.6980 of 2015

M.Subbaiah

...Petitioner

Vs.

1.The State of Tamil Nadu
rep. by its Secretary,
Hindu Religious and Charitable Endowments Department,
Secretariat,
Chennai - 600 009.

2.The Commissioner
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai
Nungambakkam,
Chennai - 600 034.

3.The Joint Commissioner / Executive Officer,
Hindu Religious and Charitable Endowments Department,
Arulmighu Subramaniaswamy Thirukovil
Tiruchendur,
Thoothukudi District. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records on the file of the third respondent in connection with the impugned order rejecting the petitioner's case for regularization vide his proceedings in Na.Ka.No.864/2012/A6-2 dated 31.10.2014 and quash the same and consequently direct the respondents to consider the petitioner's case for regularisation in the post of Watchman and pay all service and monetary benefits

For Petitioner : Mr.G.Thalaimutharasu

For Respondents 1 & 2 : Mr.Murugaraj
Government Advocate

For 3rd Respondent : Mr.M.Muthugeethayan



O R D E R

The order of rejection, rejecting the claim of the writ petitioner to regularize his services in proceedings in Na.Ka.No.864/2012/A6-2, dated 31.10.2014, is under challenge in the present writ petition.

2.The writ petitioner was appointed as temporary Watchman (Footwear Protection) on 01.07.2004, pursuant to the orders passed by the third respondent, more specifically on daily wage basis, the petitioner was fixed a sum of Rs.40/- per day as wages. Subsequently, the daily wage amount was enhanced to Rs.100/-. The writ petitioner submitted a representation on 15.06.2012, to the Authorities Competent to regularize his services, in view of the fact that he was continuously working as a daily wage employee. The case of the writ petitioner was considered by the respondents and the claim was rejected on the ground that the writ petitioner has not in service continuously for a period of five years and therefore, the services cannot be regularized.

3.The regularization cannot be claimed as a matter of right. Confirmation of service or regularization is to be granted strictly in accordance with the rules in force. The principles for regularization and permanent absorption, has now been 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.

4.The Hon'ble Supreme Court laid down the principles without conducting proper selection is a back door appointment. Persons appointed on daily wages or on temporary basis, without following the recruitment rules in force are not entitled to be regularized in the permanent sanctioned post. All appointment to the public posts are to be made strictly in accordance with the rules in force. Equal opportunity in public employment is the Constitutional mandate. All eligible candidates aspiring to secure public employment must be provided with an opportunity to participate in the open competitive process for the purpose of selection and appointment.

5.Contrarily persons cannot be appointed on daily wage basis or on temporary basis and after serving few years, their service cannot be regularized without adhering to the principles or the recruitment rules in force. If such a practice is allowed, then the sanctity in appointment will be diluted and further, ineligible persons will get appointment, depriving the opportunity of meritorious candidates. Assessment of merit by way of selection is of paramount importance for the purpose of creating an efficient and effective public administration. Thus, all



appointments are to be made strictly in accordance with the service rules in force and any such back door appointments can never be obligated or be confirmed. This being the principles to be followed, the writ petitioner admittedly was appointed as a daily wage employee and he had not completed five years of continuous service as on the date of consideration of his representation. Thus, this Court do not find any infirmity in respect of the impugned order of rejection passed by the third respondent. Accordingly, this writ petition is devoid of merits and stands dismissed. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The Secretary, State of Tamil Nadu
Hindu Religious and Charitable Endowments Department,
Secretariat, Chennai - 600 009.

2.The Commissioner
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai
Nungambakkam, Chennai - 600 034.

3.The Joint Commissioner / Executive Officer,
Hindu Religious and Charitable Endowments Department,
Arulmighu Subramaniaswamy Thirukovil
Tiruchendur, Thoothukudi District.

+1 CC to M/s.G. THALAIMUTHARASU, Advocate (SR-19524[F] dated 09/10/2020)

+1 CC to M/s.GP (SR-19631 & SR-19612[F] dated 09/10/2020)

+1 CC to M/s.M. MUTHUGEETHAYAN, Advocate (SR-19643[F] dated 09/10/2020)

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MR(CO)

TR(20.10.2020) 3P 7C