



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD) No.20754 of 2013

R.Nalini

... Petitioner

vs.

1.The Secretary,
Ministry of Higher Education,
St.George Fort, Chennai.

2.The Registrar,
Madurai Kamaraj University,
Madurai.

3.The Co-ordinator,
School of Bio-Technology,
Madurai Kamaraj University, Madurai

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the second respondent to reinstate the petitioner in the School of Biotechnology in the 2nd respondent University as CPCLR and by fixing a time frame by this Hon'ble Court.

For Petitioner	: Mr.R.Ramasamy
For R-1	: Mr.M.Linga Durai Government Advocate
For R2	: Mr.R.Vasantha Kumar

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus to direct the second respondent to reinstate the petitioner in the School of Biotechnology in the 2nd respondent University as CPCLR.

2.Heard Mr.R.Ramasamy, learned Counsel for the petitioner and Mr.M.Linga Durai, learned Government Advocate for the first respondent and Mr.R.Vasantha Kumar, learned Counsel for the second respondent.

3.The petitioner states that she has passed M.Sc.(Zoology) in 1998. It is stated that the petitioner, as a qualified person, joined as a Lab Assistant in a project known as "Plasma Proteomics of Leprosy and Reactional Cases" on 20.07.2006. It is further stated that the selection was made by conducting interview and all. The petitioner was serving as a Lab Assistant on contract basis with a consolidated pay of Rs.6,000/-. The petitioner later completed



PG.D.C.A., and B.Li.Sc. It is further admitted by the petitioner that the project was a joint venture of Government of India, New Delhi and Madurai Kamaraj University funded by Government of India. Though the project was for a period of three years, it is stated by the petitioner that she was continued in the job even thereafter and the petitioner was engaged even after the completion of the project. However, the petitioner's grievance is that the third respondent called her and terminated her from service on 01.07.2013. Since the petitioner was forcibly sent out from the School of Biotechnology, she made a request to the third respondent to reinstate her as Lab Assistant. Since the representation of the petitioner was not considered, the petitioner states that she has no other option, but to approach this Court for issuance of a Writ of Mandamus as prayed for in this Writ Petition.

4.The learned Counsel for the petitioner admitted that the petitioner was appointed as Lab Assistant (DBT) by a communication, dated 08.09.2006 and that her appointment was made purely contractual. Though the petitioner has not produced the terms and conditions of the appointment in full before this Court, in the counter affidavit filed by the University, it is specifically stated that the petitioner was not appointed against any sanctioned post in the University and by obtaining permission from the Syndicate of the University following the recruitment norms, procedure and communal reservation and roster etc., prescribed by the University under Statute.

5.It is the specific case of the second respondent that there was no employer-employee relationship between the respondent University and the petitioner, who is just a casual labour not governed by any service rules prescribed for the employees of the University. It is the case of the respondent University that to meet the exigencies and contingencies in the Research Projects/Schemes sanctioned for a particular period by any funding agency, the persons, like the petitioner, are engaged by the Principal Investigators on contract or adhoc basis in relation to the project undertaken by them either independently or with cooperation of any other agency using the fund provided by the funding agency, which may either by the Central Government or any other Government Agency, which undertake any development or research project. The engagement of any one under such project according to the respondent University is subject to the availability of funds or availability of work and the requirement of the project. The engagement of casual labour, like the petitioner, will be only upto the period required or till the funds are exhausted. Upon completion of the project, the service of workers, like the petitioner, will be discontinued without any stigma. Therefore, it was specifically contended by the respondent University that the petitioner was never terminated from service by the University or by the person, who appointed the petitioner originally on consolidated

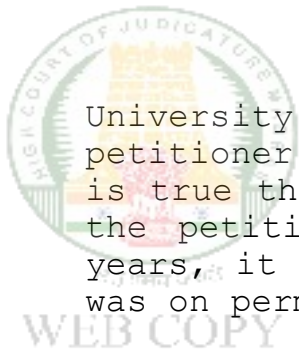


6.The learned Counsel for the second respondent also submitted that the petitioner, whose appointment was purely temporary and on contract basis for a project, has no right to claim permanency or continuous employment like any other employee of University, who was appointed against sanctioned post following the recruitment rules, procedure and communal reservation and roster, etc.

7.The learned Counsel for the petitioner is unable to point out from the appointment order or by referring to the Rules, any clause, which would recognise the petitioner as employee of the respondent University. From the appointment order, it is seen that the petitioner was appointed by one Senior Professor/Head of the Department of Genetic Engineering. The petitioner was appointed as Lab Assistant on a consolidated pay of Rs.5,000/- per month. It is stated by the petitioner that the petitioner was appointed based on the educational qualification, experience in the DBT project, entitled "Plasma Proteomics of Leprosy and Reactional Cases" in the department of School of Biotechnology, Madurai Kamaraj University. From the order of appointment, it is seen that the petitioner was appointed by a letter without following the process of selection for absorbing any other employee of the respondent University.

8.The learned Counsel for the petitioner relied upon the memorandum of agreement between the Government of India and Madurai Kamaraj University, wherein, a specific clause was included to mean that Madurai Kamaraj University will take all the liabilities of the project including man power, after completion of the project period. Relying upon this clause, it is submitted by the learned Counsel for the petitioner that Madurai Kamaraj University has undertaken to engage required man power even after the completion of the project. The learned Counsel for the petitioner, thereafter, made an attempt to draw inference that the respondent University has a legal obligation to absorb the employees, who was engaged on contract basis after the completion of the project. This Court is unable to accept the contention of the petitioner. The petitioner has no right to seek absorption or regularisation based on her original appointment, which is purely on contract and temporary basis for a project. Though the agreement or understanding indicates certain clauses regarding mutual obligation under liabilities with reference to the project, it is not the intention of the parties to the memorandum of understanding to define their rights and obligations arising outside the purview of the project.

9.Secondly, the petitioner, who knowing fully well that she was engaged for a particular project and her appointment is liable to be terminated upon completion of the project, has now projected a case quite contrary to the terms of employment. It is pointed out in the counter affidavit that the project was continued beyond three years, as the funding agency had given sufficient funds to continue the project and the interest component. However, neither the



University nor a competent authority of University has promised the petitioner a job guarantee beyond the completion of the project. It is true that the petitioner was engaged till 2013. Merely because, the petitioner was continued beyond the original period of three years, it cannot be presumed that the engagement of the petitioner was on permanent basis.

10.It is admitted that there is no fresh recruitment or appointment. At best, it can be inferred that the petitioner was engaged on the same terms beyond the period of three years. That does not mean that the petitioner can be given any special status to seek regularisation or absorption. The law of principle laid down by the Honourable Supreme Court in the case of **Umadevi vs State of Karnataka and others** reported in (2006) 4 SCC 1, cannot be ignored. Similarly, this Court in several reported cases has held that the services of a person, who was appointed on temporary basis or on contract basis, cannot be regularised, merely because the contract was renewed for a few more years. It is not the case of the petitioner that the petitioner's service was terminated in the middle. It is established before this Court that the petitioner's service was not continued beyond the period, to which her prior appointment was limited. In such circumstances, the petitioner, who was appointed for a time bound project sanctioned by the Department of Bio-Technology, is not entitled to continue her service, when her service was discontinued upon completion of the project. It is not the case of termination, as contended by the petitioner. Hence, this Court is not inclined to entertain this Writ Petition.

11.For all the reasons stated above, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CRL)

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/ /2021

Sub Assistant Registrar(CS)

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To

The Secretary,
Ministry of Higher Education,
St.George Fort, Chennai.

W.P. (MD) No.20754 of 2013

17.08.2021

MGJ(25.08.2021) 4P 2C

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