



WEB COPY

W.A.(MD).No.1623 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2021

CORAM:

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM

AND

The Hon'ble Mrs.JUSTICE S.ANANTHI

W.A. (MD) .No.1623 of 2018

and C.M.P(MD) .No.11792 of 2018

Velladathan

...Appellant/Petitioner

Vs.

1. UTI - Infrastructure Technology & Services Ltd.,
(A Government of India Company)
Plot No.3, Sector - 11, CBD Belapur,
Navi Mumbai.

2. UTI - Infrastructure Technology & Services Ltd.,
(A Government of India Company)
Rep. by its Branch Manager
No.86, New Jail Road,
Madurai 625016.

...Respondents/Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to allow this Writ Appeal by setting aside the order passed in W.P.(MD).No.1156 of 2011 dated 31.01.2018 on the file of this Court.

Prayer in WP(MD). 1156 of 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ or order or direction and more particularly a Writ of Mandamus directing the respondents 1 and 2 herein to regularize petitioner s service as per petitioner s representation dated 01.01.2011 within a time framed to be fixed by this Hon'ble Court.

For Appellant : Mr.K.Appadurai

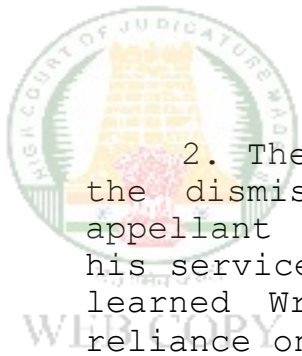
For Respondents : Mr.Y.Kavitha
for Giridhar & Sai
for R2.
R1 - No appearance

J U D G M E N T

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.K.Appadurai, learned counsel appearing for the appellant and Ms.V.Kavitha, learned counsel appearing for the second respondent.

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2. The appellant is the writ petitioner and he is aggrieved by the dismissal of W.P(MD).No.1156 of 2011 dated 31.01.2018. The appellant sought for direction upon the respondents to regularize his services by considering his representation dated 11.01.2011. The learned Writ Court had dismissed the writ petition by placing reliance on the decision of the Hon'ble Supreme Court **in the case of Secretary, State of Karnataka and others vs. Umadevi (3) and others [2006 4 SCC 1]**. Challenging the correctness of the order, the appellant is before us.

3. Though we are in agreement with the ultimate conclusion arrived at by the learned Writ Court, in our considered view, the decision in **Umadevi (3)** (supra) cannot be applied to the facts and circumstances of the case as the prayer sought for, though appears to be innocuous, the appellant seeks for permanent absorption in the respondent organisation. Therefore, we are required to see, whether it is feasible and any relief can be granted.

4. The admitted facts are that the appellant was appointed on 02.05.1998 as Assistant of Probation in the Unit Trust of India, subsequently regularised. The Unit Trust of India Act was repealed in the year 2002. Thereafter, the appellant became an employee under the Asset Management Company of UTI. However, the said company was a separate legal entity. The appellant continued to work in the said organization till 21.10.2003, when he was offered an action to voluntarily separate from the employment, called as Voluntary Separation Scheme (VSS). The appellant submitted his application after serving for 15 years as on 26.09.2003 and he was relieved on 31.10.2003 and was paid a sum of Rs.7,82,640/- towards settlement. Thereafter, in the year 2003, a Circular dated 12.08.2003 was issued to selected persons for contractual arrangement, depending on the position for which they were selected and they will be paid consolidated monthly amount. The appellant applied for such contractual appointment and he was called for interview and subsequently appointed as Executive on contract basis by offer letter dated 04.11.2003. The conditions of such contractual arrangement are spelt out in paragraph No.7 of the counter affidavit filed by the respondents, which would clearly show that there is no vested right for the appellant to continue as a contractual employee or for claiming regularisation. The appellant's contract was extended for a further period from 24.11.2006 to 31.12.2006 and subsequently from 01.01.2007 to 31.03.2007, after which, there was no further extension. Further to be noted, prior to 2006 apart from regular employees, there were Executives, who were working under Voluntary Separate Scheme (VSS) on contractual basis through Man Power Agency. During 2006, the respondents took a decision to regularize the services of the employees of all the three categories and a circular in this regard was issued vide circular dated 27.04.2006. However, the respondents had to undertake a process for



identification of persons, who would be eligible for such regularisation. Without which, such regularization would have been termed as 'arbitrary and unreasonable'. Accordingly, a scheme was framed by which, the suitability of the candidates was assessed by written examination followed by the viva and personal interview and then the result would be declared. In paragraph 14 of the counter affidavit, the grades secured by the appellant has been set out and we find from the grades that the appellant secured 'C'. Therefore, he would not offer a position.

5. Admittedly, the non-selection of the appellant has not been put in challenge. Apart from that, we note that UTIISL had a vendor, who was providing Man Power Services for the Company in the southern region. The appellant submitted his application to the said Man Power Agency for providing employment and they had engaged in from 19.04.2010 and posted him at Madurai Branch on contract basis along with other candidates. The salaries were paid by the Man Power Agency and obviously, such employment cannot have any employer-employee relationship between the appellant and the respondents.

6. Thus, the above facts would clearly show that the relief sought for regularisation cannot be granted by any stretch of imagination. Therefore, we agree with the ultimate conclusion of the learned Writ Court. But for the reasons assigned by us in the preceding paragraphs, this Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

kmm

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+1 CC to M/s.R.RAJARAMAN, Advocate (SR-20660[F] dated 30/06/2021)

+1 CC to M/s.K.APPADURAI, Advocate (SR-20663[F] dated 30/06/2021)

Order made in

W.A. (MD) .No.1623 of 2018

Dated:**29.06.2021**

NS (CO)

TR(09.07.2021) 3P 3C

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