



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE **M.M. SUNDRESH**

AND

THE HONOURABLE MRS. JUSTICE **S. ANANTHI**

W.P. (MD) No. 2461 of 2015

and

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

WEB COPY

1. P. Sarojini
2. J. Sheela Nirmala Kumari
3. G. Mariammal
4. P. Nagarajan
5. U. Mariappan
6. S. Maheswari
7. M. Gomathi
8. T. Mary Bhuvana Selvarani
9. R. Subramaniam
10. P. Jeya Ganapooranam
11. K. Vasahaleela
12. V. Jawahar
13. A. Amuthavalli
14. N. Chitra Devi
15. P. Jothi Lakshmi

: Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary to the Government,
Home (Courts) Department,
Chennai - 600 009.



2.The Registrar General,
High Court of Judicature Madras,
Madras.

3.The Secretary,
Tamil Nadu Public Service Commission,
Chennai - 600 006.

4.The Principal District Judge,
Thoothukudi District,
Thoothukudi.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents to regularize the petitioners' service in the Tamil Nadu Judicial Ministerial Service with all attendant, service and monetary benefit by conducting Special Competitive Examination by the respondents.

For Petitioners : Mr.P.Pethu Rajesh

For Respondents : Mr.R.Murugaraj,
Government Advocate for R.1

Mr.D.Venkatesh
for R.2 & R.4

ORDER

(Order of the Court was made by **M.M.SUNDRESH, J.**)

The petitioners, who are temporary employees, have filed this writ petition seeking a direction to the respondents to regularize their service by conducting a Special Examination.

2. When the matter is taken up for hearing, the learned Counsel appearing on either side submitted that the issue is no longer *res integra*, in view of the order passed by a Division Bench of this Court in W.P.No.3498 of 2013, etc., batch, dated 27.11.2014.

3. By the said order, the Division Bench was pleased to hold as follows:

"5. We have examined the said submission. We are of the considered view that such a direction cannot be granted for more than one reason. Firstly, the petitioners, while working in the post on temporary basis, had an opportunity to participate in the examination conducted by the Public Service Commission for appointment in the said post. Some of the candidates had appeared for the examination and also come out successfully. The petitioners, it appears, have not participated in the selection process. Secondly, the petitioners, while accepting the



appointment on temporary basis, were conscious of the fact that their appointment was only till regularly appointed incumbents are available. Thirdly, the petitioners' appointment was not in accordance with the Constitutional scheme of employment. Thus, it cannot be directed to conduct a separate examination for regularization of the present employees.

6. However, to meet the ends of justice, we feel just and proper that in future, whenever selection takes place and the petitioners apply for the same post in which they are working, the Government may take into account, their work as temporary employees and grant age relaxation to them, to the extent of their service in the same post.

7. We also make it clear that if the petitioners make a representation to the employment exchange for maintaining seniority in the list, as on account of their appointment temporarily, their names have been struck off, the authorities will consider the same sympathetically to restore their seniority in the list.

8. In fine, the writ petitions are disposed of with the above observations and in terms of the order of this Court dated 21.11.2014 (supra). No cost. Connected Miscellaneous Petitions are closed."

4. In view of the aforesaid position, this writ petition also stands disposed of in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gk

To

1.The Secretary to the Government,
State of Tamil Nadu,
Home (Courts) Department,
Chennai - 600 009.

2.The Registrar General,
High Court of Judicature Madras, Madras.

3.The Secretary,
Tamil Nadu Public Service Commission,
Chennai - 600 006.



4.The Principal District Judge,
Thoothukudi District,
Thoothukudi.

+1 CC to M/s.P.PETHU RAJESH, Advocate (SR-6030[F] dated
18/02/2021)

+1 CC to M/s.SPL GP (SR-6194[F] dated 19/02/2021)

+1 CC to M/s.D.VENKATESH (SR-6625[F] dated 23/02/2021)

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TR(01.03.2021) 4P 8C