



Order dated : 13.07.2022
Writ Petition No.3693 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

Writ Petition No.3693 of 2015
and
M.P.No.1 of 2015

N.Ravichandran

... Petitioner

Vs.

1.The Government of Tamil Nadu
represented by Secretary to Government,
Tamil Nadu Legislative Assembly,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Secretary to Government,
Finance Department,
Fort St.George,
Chennai - 600 009.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records in respect of the letter No.15240/2014, TNLAS (OP-1) dated 05.01.2015 issued by the first respondent, quash the same, consequently direct the first respondent to reinstate the petitioner with backwages, continuity of service and all other attendant benefits by regularizing his service as Office Assistant.



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For Petitioner : Mr.N.Ravichandran,
Petitioner-in-Person

For Respondents : Mr.S.Silambanan,
Additional Advocate General
assisted by Mrs.S.Anitha
Special Government Pleader

ORDER

The order of rejection rejecting the claim of the petitioner to reinstate him in service and to regularize his service is under challenge in the present writ petition.

2. The petitioner states that he had been working in the Tamil Nadu Legislative Assembly as a lump sum staff from the year 1989 until 2005. The petitioner was recruited as temporary staff and served for more than ten years. The petitioner made a representation to regularize his services on the basis that some of his juniors were regularized. However, the claim of the petitioner for grant of regularization was rejected by the competent authorities. The petitioner filed W.P.No.16381 of 2009 challenging the order of rejection and the said writ petition was allowed. However, the Government of Tamil Nadu preferred an appeal in W.A.No.2032 of 2011 and the Division Bench of this Court



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considered the issue and *vide* order dated 23.07.2013, allowed the writ appeal, wherein it has been observed as follows:

"16. It is a well settled position in law that recruitment to various posts are to be made only by following the procedures established by law. When specific rules had been framed for recruiting persons to the posts of assistants and office assistants in the secretariat service it would not be open to the respondent to claim that he should be regularized in service, as an office assistant, as he had been engaged in service, during the Assembly Sessions, on various occasions. Such engagement of the respondent in service, intermittently, during the Assembly Sessions, would not give him any right to claim for regularization of his service in the post of office assistant. As such, we are of the considered view that the order of the learned single Judge, dated 18.3.2011, made in W.P.No.16381 of 2009, is liable to be set aside. Accordingly, it is set aside. The writ appeal stands allowed. Consequently, connected miscellaneous petitions are closed."

3. The order of the learned single Judge was set aside by the Division Bench of this Court and the dispute regarding reinstatement and regularization of the petitioner reached finality. The petitioner has not preferred any appeal before the Supreme Court of India. Contrarily, he has filed the present writ petition seeking reinstatement and to regularize his service.

4. The petitioner-in-person made a submission that several irregularities had occurred in the Tamil Nadu Legislative Assembly in the matter of appointment. These general allegations cannot be adjudicated in the present writ petition and if at all, the petitioner is aggrieved or otherwise, he is at



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liberty to approach the competent authorities with regard to such irregularities in the matter of appointment. As far as the case of the petitioner is concerned, he was temporarily serving as lump sum staff and he was discharged from service.

5. Learned Additional Advocate General appearing on behalf of the respondents made a submission that the services of the petitioner were not continuous. His service were being engaged on need basis and he was discharged from service. Therefore, the petitioner is not entitled for regularization even as per the Government policy for grant of regularization.

6. Regularization or permanent absorption cannot be claimed as a matter of right. Regularization is to be granted strictly in accordance with the service rules in force. Equal opportunity for public employment is a constitutional mandate. All appointments are to be made strictly in accordance with the recruitment rules in force and by affording opportunity to all the eligible candidates, who are aspiring to secure public employment through open competition process. Equality enunciated under Article 14 of the Constitution of India is to be followed scrupulously by the competent authority and in all



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circumstances, the competent authority shall ensure that constitutional principles are implemented without any deviation.

7. Mere continuance as a temporary staff, more so, in the present case as lump sum staff on different spells, on need basis, would not confer any right to seek regularization or permanent absorption. Such staff are engaged more specifically during the Assembly Sessions and on completion of Assembly Sessions, they are discharged from duty. This being the nature of engagement made by the Tamil Nadu Legislative Assembly in respect of these lump sum staff, they cannot seek any permanent absorption merely based on such temporary service, which is otherwise in accordance with the recruitment rules in force.

8. In the present case, the Division Bench has already considered the case of the petitioner and set aside the order passed in the writ petition. That being so, filing of another writ petition for the same relief is not entertainable. That apart, the petitioner was discharged from service in the year 2005 and during the first round of litigation, he failed and he instituted the present writ petition

S.M.SUBRAMANIAM., J



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in the year 2015. For all these reasons, this Court is not inclined to grant the relief as such sought for in the present writ petition.

Accordingly, this Writ Petition stands dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

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Speaking order
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To

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