



W.P.No.4653 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.4653 of 2016

- 1.K.Muthukumar
- 2.M.Pushpa Balan
- 3.K.Ramesh
- 4.D.Prakash
- 5.R.Sivanandan
- 6.C.Sakthimurugan
- 7.S.Thirulogasandar
- 8.P.Vivekanandan
- 9.D.Anbazhagan
- 10.M.Pandian
- 11.S.Vijay
- 12.N.Veeramani
- 13.N.Senthilkumaran
- 14.r.Saravanan
- 15.M.Karthi
- 16.R.Murugan
- 17.A.Srinivasan
- 18.U.Kannappan
- 19.C.Kalaiselvan
- 20.A.Sowndarapandian
- 21.R.Murugayee
- 22.J.Balasaravanan
- 23.M.Ramakrishnan
- 24.A.Moorthy
- 25.M.P.Venkatesan
- 26.T.Michelraj
- 27.N.Rajagopala Krishnan
- 28.D.Sriman Kamaraj
- 29.D.Senthilkumar



W.P.No.4653 of 2016

30.A.Katturajan
31.T.Ramesh
32.P.Sivamanikandeswaran
33.R.Mani
34.P.Senthilkumar
35.P.Periyasamy
36.R.Suyambulingam

...Petitioners

-Vs-

The Principal Secretary,
Sports Development Authority of Tamil Nadu,
No.116-A, Periyar EVR High Road,
Nehru Park, Chennai - 600 084.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondent to regularize the services of the petitioners in the Group-D posts in which the petitioners are working with regular time scale of pay by considering the representation submitted by the petitioners dated 14.09.2015 in the light of orders passed in favour of similarly placed persons as per the proceedings of respondent in Proc.No.51239/A2/93 dated 10.09.1997 based on the powers for fixation of cadre strength conferred under Rule 7 of Service Rules.

For Petitioners : Mr.S.Nedunchezhiyan

For Respondent : Mr.S.Santhosh Kumar
for Mr.K.Azhagu Raman



W.P.No.4653 of 2016

ORDER

WEB COPY

The relief sought for in the present Writ Petition is to direct the respondent to regularize the services of the petitioners in Group-D posts.

2. The petitioners are working as Lifeguard, Marker, Pump Operator cum Electrician, Scavenger cum Gardener, Night Watchman in Group-D posts under the control of the Sports Development Authority of Tamil Nadu. The petitioners are working for several years on daily wage basis.

3. The learned counsel for the petitioners submitted that the services of the petitioners are to be regularized in the sanctioned post, in view of the fact that the petitioners are allowed to continue as Group-D employees. The learned counsel further submitted that when the job is available under the Sports Development Authority, they have to absorb the petitioners on permanent basis. The petitioners made several representations based on the Government Order issued in G.O.Ms.No.74, Personnel and Administrative Reforms Department, dated 27.06.2013. However, the respondent had not considered the representations and



W.P.No.4653 of 2016

therefore, the petitioners are constrained to move this writ petition.

WEB COPY

4. The learned counsel for the respondent made a submission that several conditions are imposed by the Government for grant of regularization under G.O.Ms.No.74. The petitioners were not appointed in accordance with the Recruitment Rules in force and therefore, their services cannot be regularized in the sanctioned post. Thus, the writ petition is to be rejected.

5. The petitioners were appointed as daily wage employees on contract basis and their initial appointments were not in accordance with the Recruitment Rules in force. Thus, initial engagement of employees on daily wage basis is irregular and therefore, they are not eligible for permanent absorption in a sanctioned post.

6. Regular appointments are to be made only by following the procedures as contemplated and in accordance with the Recruitment Rules in force. All appointments are to be made strictly in accordance with the Rules through open competitive process and by affording equal opportunity to all the eligible candidates who are all aspiring to secure



W.P.No.4653 of 2016

public appointment. Thus, the equality clause enshrined under the Constitution at no circumstance be violated by the public authorities while undertaking the process of selection to the sanctioned posts.

7. The Constitution Bench of the Hon'ble Supreme Court of India, in the case of *State of Karnataka Vs. Uma Devi and Others* reported in *(2006) 4 SCC 1*, settled the principles in the matter of regularization and permanent absorption. Even subsequently, the Hon'ble Supreme Court, in the case of *Secretary to Government, School Education Department, Chennai vs. R.Govindaswamy and others* reported in *(2014) 4 SCC 769*, has issued a direction that the High Courts are not empowered to issue a direction to regularize the services of employees who were not appointed in accordance with the Recruitment Rules in force.

8. In the present case, the petitioners were appointed as daily wage employees on contract basis. If at all they wish to secure regular employment, they are at liberty to participate in the process of selection whenever a recruitment notification is issued.

9. The learned counsel for the respondent brought to the notice of



W.P.No.4653 of 2016

this Court that the daily wage employees are engaged on need basis, based on the activities of the Sport Development Authority of Tamil Nadu and therefore, they cannot be regularized in a sanctioned post, since the nature of job is not permanent.

10. This Court is of the considered opinion that the services of the petitioners may be utilized whenever there is a need and on certain terms and conditions. However, the petitioners are not entitled for the benefit of regularization and permanent absorption, since their initial appointments were irregular and not in accordance with the Recruitment Rules in force. For securing regular appointments, the petitioners have to participate in the process of selection, if any notified.

11. With these observations, the Writ Petition stands dismissed. No costs.

15.11.2022

Index:Yes
Internet:Yes
Speaking order
hvk



W.P.No.4653 of 2016

WEB COPY To

The Principal Secretary,
Sports Development Authority of Tamil Nadu,
No.116-A, Periyar EVR High Road,
Nehru Park,
Chennai - 600 084.



WEB COPY



W.P.No.4653 of 2016

S.M.SUBRAMANIAM, J.

hvk

W.P.No.4653 of 2016

15.11.2022