



W.P.No.624 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.624 of 2017

K.Naga

...Petitioner

Vs.

1.The State rep. by The Registrar,
State Human Rights Commission, Tamil Nadu,
No.143, Kumarasamy, Raja Salai,
Chennai – 600 028.

2.The State rep. by
The Secretary, Home Department,
Fort St. George,
Chennai – 600 001.

Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Mandamus, directing the First Respondent to reinstate and regularize the service of the Petitioner with rate of wages as fixed by the first respondent commission vide their proceeding No.769 dated 10.02.2015.

For Petitioner

: Mr.P.B.Suresh Babu

For Respondents

: Mr.S.Rajesh
Government Advocate



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ORDER

The relief sought for in the present writ petition is to direct the 1st respondent to reinstate and regularize the service of the petitioner with rate of wages as fixed by the 1st respondent commission vide their proceedings No.769 dated 10.02.2015.

2.The petitioner was engaged as Sweeper on daily wage basis in the office of 1st respondent/State Human Rights Commission, Tamil Nadu. The grievance of the writ petitioner is that she was continuously working as daily wage employee till 15.07.2016. Thereafter, she was not engaged by the 1st respondent and she was forced to leave the job. Another person was appointed as daily wage employee in the place of the writ petitioner. Since the petitioner was orally terminated, she has approached this Court

3.The learned counsel for the petitioner states that an interview was conducted subsequently to recruit employees to Group 'D' Services and candidates participated including the petitioner. However, she was not selected and her past services in the 1st respondent Commission was also not taken into consideration.



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4.Regularization or permanent absorption cannot be granted in violation of the rules in force. The initial appointment of the writ petitioner was not in accordance with the rules and admittedly she was engaged as daily wage employee on temporary basis. She was engaged on need basis and the daily wage salary was calculated and paid on monthly basis.

5. The learned Government Advocate appearing on behalf of the respondents made a submission that the petitioner was engaged as daily wage employee on need basis and therefore, she is not entitled for regularization or permanent absorption in a sanctioned post. The petitioner was not engaged from 2011 November onwards. However, she was engaged from the month of December 2012. That apart, the 1st respondent Commission found that the petitioner is not qualified for the post of Sweeper and in the subsequent interview conducted by the Commission, she was not selected. The representation submitted by the writ petitioner was duly considered and the reply was given to her stating that the regularization is to be granted only in accordance with the Rules.

6.In view of the judgment of the Constitution Bench of the Hon'ble Supreme



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Court of India in the case of *State of Karnataka vs. Umadevi* reported in **2006 4**

SCC 1, irregular or illegal appointments cannot be regularized. All appointments are to be made strictly in accordance with rules and the benefit of regularization or permanent absorption are to be granted only if the initial appointment of the employee is in accordance with the rules in force. This being the factum, the relief as such sought for to regularize the services of the writ petitioner cannot be granted. That apart, the petitioner is not in service for the past more than five years and even in the interview conducted by the 1s respondent Commission, the petitioner was not selected. Thus, she is not entitled for the relief as such sought for in the present writ petition.

7. Accordingly, this writ petition stands dismissed. No Costs.

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Index : Yes
Internet : Yes
Speaking order : Yes
ssr

To



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S.M.SUBRAMANIAM, J.

SSR

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