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W.P.No.27793 of 2017

and

W.M.P.No.29780 and 29781 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:14.12.2022

Coram:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.27793 of 2017

and

W.M.P.No.29780 and 29781 of 2017

1.S.Saminathan

2.D.Raja

.. Petitioners

/versus/

1.The Chairman,
Governing Council of Irrigation Management
Training Institute Trichy,
Rep.by Principal Secretary to
Govt.of Tamil Nadu,
Public Works Department,
Fort St.George, Chennai 600 009.

2.The Secretary to the Govt.
Co-operation, Food & Consumer Protection
Department, St.George Fort,
Chennai.

3.The Chief Engineer, W.R.O, P.W.D.,
Institute for Water Studies,
Tharamani, Chennai 600 113.

.. Respondents



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Prayer: Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent minutes of the 50th Governing Council Meeting and Annual General Body Meeting of Irrigation Management Training Institute, Trichy dated 31.05.2016 and quash the same and consequently, direct the respondent to reinstate the petitioners' service.

For Petitioners :M/s.S.Esairani Narasimman

For Respondents :M/s S.Karthikei Balan for R1
Mr.K.H.Ravikumar,
G.A., for R2 and R3

ORDER

Both the petitioners herein were retained as Technical Assistants in the Irrigation Management Training Institute under the control of Public Works Department on daily wage basis from the year 1988 onwards. In view of their lengthy service, they had earlier sought for a direction to the respondents to consider the claim of the writ petitioners for absorption in the time scale of pay from the date of their initial appointment in W.P.No.29661 of 2015, which came to be dismissed on 24.08.2017, by



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observing as follows:-

“7.The Hon'ble Supreme Court held that the High Court in exercising power under Article 226 of the Constitution of India will not issue directions for regularization/absorption or permanent continuance, unless the employees claiming regularization had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularization of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the matter, can be regularized, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularized.

8.Thus, the Supreme Court made it very clear that there cannot be any claim for regularization/permanent absorption if an



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employee had entered into public employment through back door. Any such irregular appointment cannot be encouraged in future and all appointments to public post be undertaken only under the constitutional schemes and by following the recruitment rules in force. Such being the consistent view of the Supreme Court and the High Courts, no inference can be drawn on the facts and circumstances in this case. Accordingly, the prayer as such sought for deserves no further consideration and the writ petition stands dismissed. Consequently, M.P.Nos.1 to 3 of 2015 are also dismissed. However, no order as to costs."

2. In the present writ petition, the petitioner challenges the Minutes of the Governing Council of the first respondent Institute, in which action was taken on the anonymous petition against the petitioners herein, as well as others.

3. The counter affidavit filed by the first respondent clearly states that the writ petitioners have not been engaged on contract basis by the first respondent regularly and they were stopped from being engaged in works on 15.10.2015 and 13.11.2015 respectively.



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4. The Minutes of the Governing Council cannot give rise to a cause of action for the petitioners to claim reinstatement into service. More particularly, when they had earlier sought for regularization of their service, their claim came to be rejected by this Court through an order dated 24.08.2017 passed in W.P.No.29661 of 2015. If that be so, the appropriate remedy available to the petitioners is to challenge the order passed in W.P.No.29661 of 2015 and seeking for a similar relief before this Court in the present writ petition, cannot be sustained.

5. As such, I do not find any merits in the present writ petition. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

14.12.2022

Index:yes/no
Speaking order/non speaking order
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M.S.RAMESH, J.

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