



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.23214 of 2019

and

W.M.P.(MD) No.5046 of 2021

K.Balaji

... Petitioner

-vs-

1. The Government of Tamil Nadu,
Rep., by its Secretary,
Department of Labour and Employment,
Fort St. George,
Chennai-600 009.
2. The Commissioner of Employment and Training,
Guindy, Chennai-600 032.
3. The Regional Joint Director of Training,
Department of Employment and Training,
Madurai-625 007.
4. The Deputy Director/Principal,
Government Industrial Training Institute (ITI),
Madurai-625 007.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order vide proceedings in R.C.No.29295/TP2/2018 dated 18.06.2019 passed by the 2nd respondent and quash the same and consequently direct the respondents to regularize the petitioner's service in the post of Junior Training Officer on regular basis with all consequent monetary benefits.

For Petitioner : Mr.T.Antony Arul Raj

For Respondents : Mr.D.S.Nedunchezian,
Government Advocate

O R D E R

The order of rejection dated 18.06.2019 passed by the 2nd respondent is under challenge in the present writ petition.

2.The petitioner states that he is fully qualified for appointment to the erstwhile post of Instructor presently, Junior Training Officer. He was initially appointed through the Employment Exchange as Instructor on contract basis. The period of contract was 11 months and it was renewed after break in service.

3.The learned counsel for the petitioner states that the petitioner participated in the regular recruitment process and appeared in the selection. However, it is stated in the impugned order that the petitioner has scored 79 marks in BC(G) category of DME and the last selected candidate's mark in BC(G) Category in DME qualification is 97. In view of the fact that the petitioner scored lesser marks, he was not selected.

4.As far as the claim of the petitioner for regularisation is concerned, this Court is of the opinion that the principles are settled by the Constitution Bench of the Hon'ble Supreme Court in **Secretary, State of Karnataka vs. Umadevi** reported in (2006) 4 SCC 1. Therefore, a contract appointee cannot claim benefit of regularisation. Further, the petitioner is not falling within the one time arrangement granted by the Constitution Bench in para 53 of the judgment, as his initial appointment was made subsequently.

5.This Court is of the considered opinion that contract appointment in the present case was made under a scheme. Therefore, the petitioner cannot claim permanent absorption so long as the scheme was in force, he may be engaged or otherwise, as his period of contract was 11 months and it is brought to the notice of this Court that the petitioner is serving on contract basis continuously. While so, the benefit of regularisation cannot be granted, as the initial appointment was not made against the regular vacancy on regular post and the appointment was made under a scheme. However, the learned counsel for the petitioner made a submission that the reason stated in the impugned order that the petitioner has scored 79 marks in BC(G) category is erroneous and even candidates who scored lesser marks than that of the petitioner were appointed. If that is the case, then the petitioner is at liberty to challenge the appointment orders issued in favour of the persons, who scored lesser marks than that of the petitioner. However, the relief of regularisation is concerned, the same cannot be considered in the present writ petition, as the the initial appointment of the writ petitioner was not in accordance with the Recruitment Rules in force and the appointment is to be construed as irregular for all purposes.



6. With the above liberty, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar (CS)

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To

1. The Secretary to Government,
The Government of Tamil Nadu,
Department of Labour and Employment,
Fort St. George, Chennai-600 009.
2. The Commissioner of Employment and Training,
Guindy, Chennai-600 032.
3. The Regional Joint Director of Training,
Department of Employment and Training,
Madurai-625 007.
4. The Deputy Director/Principal,
Government Industrial Training Institute (ITI),
Madurai-625 007.

+1 CC to M/s.SPL GP (SR-6504[F] dated 16/02/2022)

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-6711[F] dated 17/02/2022)

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