



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.27123 of 2019

and

W.M.P. (MD) No.23451 of 2019

P.Vimala

... Petitioner

-vs-

1. The Secretary to Government,
PWD, Water Research Organization,
Fort St. George, Chennai.

2. The Engineer in Chief (Building),
Chief Engineer Buildings and
Chief Engineer (General),
Public Works Department, Chennai.

3. The Executive Engineer,
PWD, National Water Management Project,
Kothayar Sub Project Implementation Division,
Cheruppalloor, Kalkulam Tk.,
Kanyakumari District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the 2nd respondent connected with impugned order in Lr.No.S4(1)/33791/2018 dated 11.06.2019 and quash the same and pass order directing the respondents to regularise the service of the petitioner from the date of initial appointment from 01.05.1989 and grant all monetary benefits and promotion benefits and other benefits.

For Petitioner : Mr.S.Titus
For Respondents : Mr.D.Sadiq Raja,
Additional Government Pleader

O R D E R

The order dated 11.06.2019 rejecting the claim of the writ petitioner for regularisation is under challenge in the present writ petition.

2.The petitioner was engaged as an NMR in scheme related projects and more specifically, on need basis.



3.The learned counsel for the petitioner made a submission that the father of the writ petitioner was a Veteran in Second World War. Thus, a priority is to be granted to the writ petitioner for grant of regularisation. However, the fact remains that the petitioner was engaged as daily wage NMR and she was provided work under the scheme related works in the Public Works Department.

4.The learned counsel for the petitioner made a submission that the order of appointment is not available with the petitioner. However, the order impugned dated 11.06.2019 is a speaking order providing all the service particulars of the writ petitioner. The impugned order has been passed pursuant to the directions issued by the High Court to consider the representation in W.P.(MD) No.20856 of 2017 dated 22.03.2019.

5.The order impugned states that the petitioner was engaged under scheme related works and on need basis on daily wages. Further, the details of engagement made as NMR are also provided along with the impugned order. The petitioner was engaged on various spells based on the need and under the schemes.

6.The question arises whether the services of an NMR needs to be regularised.

7.Now, the issues relating to regularisation and permanent absorption were settled by the Hon'ble Supreme Court of India in the case of **Secretary, State of Karnataka vs. Umadevi** reported in **(2006) 4 SCC 1**.

8.Thus, a person, who was not appointed in accordance with the Recruitment Rules, is not entitled for the benefit of regularisation or permanent absorption. The priority under the Ex-serviceman Category is to be extended strictly in accordance with the Rules. Whether the petitioner is entitled for the priority or not cannot be decided by this Court, as the petitioner herself states that her Father was a Soldier during the Second World War in the year 1942. However, after Independence, there were several Government Orders in the matter of priority for Ex-Serviceman and it is for the Department to verify the same.

9.As far as the regularisation is concerned, the petitioner is being engaged as NMR and she is continuing as such. As of now, the petitioner is aged about 59 years and almost in fag end of service. Under these circumstances, this Court is of the opinion that the petitioner is not entitled for the benefit of regularisation or permanent absorption in view of the judgment of the Constitution Bench of the Hon'ble Supreme Court of India.



10. Accordingly, this Writ Petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

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/ /2022

Sub Assistant Registrar(CS)

To

1. The Secretary to Government,
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Fort St. George, Chennai.
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Chief Engineer Buildings and
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Kanyakumari District.

+1 CC to M/s.SPL GP (SR-6793[F] dated 17/02/2022)

+1 CC to M/s.S.TITUS, Advocate (SR-6657[F] dated 17/02/2022)

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