



W.P.38242 of 2005 etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	:	22.11.2022
PRONOUNCED ON	:	14.02.2023

CORAM :

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

**W.P.Nos.38242, 38140, 38495, 38496, 38547,
38549, 38551 and 38609 of 2005 (8 cases)
and connected MPs.**

WP.38242 of 2005:-

N.Thiruvaimozhi

... Petitioner

Vs.

1.The Anna University
rep. By its Vice-Chancellor
Guindy, Chennai-600 025

2. The Registrar
Anna University
Guindy, Chennai-600 025

3.The Legal Officer
Anna University
Guindy, Chennai-600 025

... Respondents

PRAYER in WP.38242 of 2005:- Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified



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Mandamus, calling for the records of the 2nd respondent pertaining to his proceedings in Lr.No.222/PR-31/2005 and consequential order of the third respondent pertaining to his proceedings in Lr.No.333/DW/LS/2005 and quash the orders dated 08.09.2005 and 18.11.2005 and consequently direct the respondents to regularise the service of the petitioner in the existing vacancy of the office assistant.

For Petitioners
in all WPs : Mr.R.Sivakumar

For Respondents : Mr.V.Meenakshisundaram
in all WPs

COMMON ORDER

The above writ petitions are filed seeking to quash the order of the 2nd respondent and the 3rd respondent dated 08.09.2005 and 18.11.2005 and consequently to direct the respondents to regularise the service of the petitioners in the existing vacancy of the office assistant, whereby, the staff on daily wages, were informed that their tenure came to an end on 20.12.2005.



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2. The petitioner in WP.Nos.38242, 38495, 38496, 38547, 38549 and 38609/2005 are working as Office Assistant and Petitioner in WP.No.38140 and 38551/2005 are working as Junior Assistant and working in the respondent University. The said employment was through Employment Exchange whereby, after sponsoring their name they were appointed as casual worker (Clerical) and posted at Examination Centre of the respondent university. The salary was paid on daily wages rate and was paid monthly. These casual workers were allotted duty to scrutinize the application for various examinations and other works relating to advertising and conducting the entire process of examination and admission.

3. Petitioners submitted representation dated 01.06.2003 to the respondents to regularise their services stating that they were working in various projects for not less than 5 years. However, the respondent-University by order dated 08.09.2005 instructed all the Heads of the Departments to relieve all the individuals who are working in consolidated salary from 20.12.2005.



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4. According to the petitioners, their employment is through employment exchange after due process of selection and they were appointed towards the sanctioned posts in the existing vacancies. The decision of the respondents to terminate the casual labourer was resolved in the Syndicate.

5. Consequent to the order of the second respondent dated 08.09.2005, 3rd respondent by order dated 16.11.2005 issued order stating their services will come to end by 20.12.2005.

6. The learned counsel for the petitioners would submit that the petitioners' service cannot be terminated for the reason that they were sponsored through employment exchange. Under the provisions of the Anna University Special Service Statutes for Administrative and Technical services, the petitioners having completed more than 5 years of the service is entitled to be considered for suitable post as and when recruitment is made.



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7. According to the learned counsel for the petitioners, the action of the respondents is malafide and against the principles of natural justice. The petitioners prayed to regularise their service in the existing vacancy.

8. In the above writ petitions, miscellaneous petitions are filed praying for interim injunction restraining the respondents from altering the service conditions of the petitioner including the pay, allowances and status of his employment, pending disposal of writ petitions. This court, by order dated 15.03.2011, directed the respondents to pay Rs.4,400/- and in some cases, 3,300/- per month which was paid as salary per month by the respondents.

9. The respondent University filed counter affidavit and submitted that the petitioners are engaged as casual employees and were not engaged against any particular sanctioned post in any particular Department/Section. The petitioners were sponsored through Employment Exchange and after interview, they were selected in the regular process of selection. It is stated that no appointment order was issued by the authority competent to make



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appointments for regular vacancies as per Special Service Statutes. The petitioner can apply for appointment to regular vacancies as and when applications are invited for filling up regular vacancies in the University.

10. In the counter affidavit, it is further stated that when the issue of engagement of casual employees was brought to the notice of the members of the syndicate, since there was no uniform guidelines/procedures and a large number of such persons have been working in those centres on different terms and when the same was pointed out by the Accountant General and the concurrent Audit, the syndicate by a Resolution No.168.12.9 dated 09.04.2005, resolved that the recruitment of staff on daily wage basis/consolidated salary has to be regulated. Consequently, it was decided to terminate existing contracts so that it can be renewed after framing of guidelines centralising the engagement of casual employees from 1st January 2006.

11. Heard both sides and perused the records.



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12. It is a matter of normal practise that when vacancies arises or as and when there is need for the purpose of running the daily official routine, persons are being posted through Employment Exchange to various posts in the various Departments, necessarily as adhoc arrangement. In the case on hand, the petitioners joined as Office Assistant and Junior Assistant in the year 2005 which was as against the regular vacancy or for adhoc arrangement. That time, they were called for from the Employment Exchange. Therefore, the petitioners herein are appointed in the respondent university against the existing vacancy arisen thereof. If the regularization of the petitioners are ratified in the Syndicate meeting, it will definitely confer a right on the individual to hold the post for which they have been selected.

13. Where a temporary or Adhoc appointment is continued for long, it can be presumed that there is a need and warrant for regular post. The regular recruitment should be insisted upon. Only in a contingency, an Adhoc appointment can be made in a permanent vacancy, but the same should soon be followed by a regular recruitment.



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14. The cases directing regularisation are mainly proceeded on the basis that having permitted the employee to work for some period, he should be absorbed. In the present cases, after the issuance of interim order by this court, the petitioners are continuing in the existing vacancies, however, they have not been regularised. Therefore, the benefit of regularisation of service has to be extended to the petitioners from the date of regular vacancy arisen in the respondent university. The said exercise shall be completed by the respondent-University within three months from the date of receipt of a copy of this order. The writ petitions are allowed on the above terms. No costs. Connected Miscellaneous Petitions are closed.

14.02.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral citation : Yes/No

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J.NISHA BANU, J.,

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