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W.P.No.22343 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.22343 of 2023 and  
W.M.P.Nos.21715 & 21716 of 2023

Ms.R.Gokila

... Petitioner

Versus

The Registrar,  
Bharathiar University,  
Coimbatore, Tamil Nadu – 641 046.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ, Order or Direction in the Nature of Writ of Certiorarified Mandamus calling for the records of the Notification No.E9/321/2023-3 dated 18.07.2023 issued by the respondent and consequently to regularize the appointment of the petitioner to the post of Legal advisor.

For Petitioner : Mr.M.Ashwin Kumar

For Respondent : Mr.K.Shakespeare

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ORDER

This Writ Petition has been filed to call for the records of the Notification No.E9/321/2023-3, dated 18.07.2023 issued by the respondent and consequently to regularize the appointment of the petitioner to the post of Legal advisor.



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2.The challenge has been made mainly on the ground that the petitioner was selected as Legal Assistant on contract basis on 21.04.2010. Initial contract period is for one year, subsequently, the same has been renewed periodically. On completion of ten years of service, the petitioner has given several representations to consider for regularization, however, the same have not been considered. Thereafter, the petitioner was selected and appointed as Legal Advisor on contract basis, vide proceedings No.E9/2019/24809-8, dated 28.01.2020. Subsequently, the service of the petitioner has been extended for a period of two years and now, the contract of the petitioner expires on 31.07.2023. Since the petitioner has already been appointed on the proper selection process, her appointment cannot be disturbed bringing other temporary or *ad hoc* post. Hence, the impugned, dated 18.07.2023 has been challenged and to regularize the petitioner to the post of Legal Advisor.

3.It is relevant to note that the interview has been scheduled on 31.07.2023 for the post of Legal Advisor (Full Time) on consolidated pay. It is also relevant to note that the petitioner has been appointed only as Legal



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Advisor on a contract basis from 2010. The contract has been extended lastly from 28.05.2023 to 31.07.2023 vide proceedings No.E9/321/2022-5, dated 13.07.2023. The learned counsel for the petitioner vehemently submitted that once the petitioner was appointed on *ad hoc* basis, she cannot be replaced by another *ad hoc* employee and can be replaced only by another candidate who is regularly appointed by following a regular procedure prescribed. In support of his contention, the learned counsel for the petitioner relied on the judgment of the Hon'ble Apex Court in the case of “**Manish Gupta and another Versus President, Jan Bhagidari Samiti and others**” reported in **2022 SCC OnLine SC 485**” and produced the Chapter XVII of Bharathiyar University. According to the learned counsel for the petitioner, once the petitioner has been appointed on *ad hoc* basis, she cannot be replaced by way of another appointment.

4.Heard the submissions of Mr.M.Ashwin Kumar, learned counsel for the petitioner and Mr.K.Shakespeare, learned counsel for the respondent and perused the entire materials.



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5.The impugned notification, dated 18.07.2023 has been issued for Walk-In-Interview inviting eligible candidates for the post of Legal Advisor (Full Time) on consolidated pay. It is not disputed that originally, the petitioner was appointed as Legal Assistant on contract basis in the year 2010. The contract lastly renewed on 13.07.2023 for a period from 28.05.2023 to 31.07.2023, which is also not disputed. The Chapter XVII of Statue of Bharathiyar University makes very clear that it shall be competent for the Syndicate to appoint a Legal Advisor/Standing Counsel for the University for such period on such terms as it may decide to perform such duties as it may fix from time or time. Therefore, the Legal Advisor post is not a permanent one in the University and only the syndicate can avail the legal services for such period on terms. Admittedly, the petitioner is only appointed as Legal Advisor for a period of one year on contract basis and now, her contract expires on 31.07.2023. When the petitioner has consciously entered into the contract with the University and the period of contract expires on 31.07.2023, she cannot claim any better right to contend that she has been appointed in a sanctioned post in the university.



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6.I am afraid of such contention that the Legal Advisor post is a sanctioned post in the University. The Legal Advisor or Standing Counsel is just for engaging a Counsel for proper legal advice to the University. When the petitioner has taken such position on the basis of contract and she is also aware of the period of contract, now she cannot challenge the notification issued for selecting the Legal Advisor (Full Time) on Consolidated pay.

7.In the decision (cited supra) relied on by the learned counsel for the petitioner, it is held that '*ad hoc employee cannot be replaced by another ad hoc employee and he can be replaced only by another candidate who is regularly appointed by following a regular procedure prescribed*'. It is relevant to note that the above decision pertains to the appointment of Teachers in the regular post in the college. Whereas the given case pertains to appointment of Legal Advisor that too based on contract basis.

8.In such view of the matter, the petitioner has no legal right to challenge the impugned notification. Hence, I do not find any merits in this



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Writ Petition. Accordingly, this Writ Petition deserves to be dismissed and, is dismissed. If the petitioner is inclined to participate in the Walk-In-Interview, she is given liberty to participate in the same and the respondent shall permit the petitioner to attend the interview. Consequently, the connected Miscellaneous Petitions are closed. No costs.

28.07.2023

Index : Yes/No  
Internet: Yes/No  
Neutral Citation: Yes/No  
Speaking Order/Non-Speaking Order

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To

The Registrar,  
Bharathiar University,  
Coimbatore, Tamil Nadu – 641 046.



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N.SATHISH KUMAR, J.  
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