



W.P.No.28674 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.28674 of 2017

N.Arivuchelvam

... Petitioner

Vs.

1.The Registrar,
Bharathidasan University,
Thiruchirappalli,
Thiruchirappalli District.

2.The Principal,
Bharathidasan University Model College,
Vedaranyam,
Nagapattinam District.

3.The Director,
The Directorate of College Education,
No.577, Anna Salai, Saidapet,
Chennai-15.

... Respondents

[R3 impleaded vide order dated
10.08.2023 made in W.M.P.No.17723
of 2023 in W.P.No.28674 of 2017]

Prayer : Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus, directing the respondents to regularize



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the petitioner's service in the 2nd respondent college based on the petitioner's representation dated 03.09.2016 and 23.01.2017 pending on the file of the 1st respondent within stipulated time may be fixed by this Court.

For Petitioner : Mr.R.Murugabharathi

For RR1 & 2 : Mr.V.Govardhanan
for M/S.Rao and Reddy

For R3 : Mr.T.M.Rajangam
Government Advocate

ORDER

This Writ Petition has been filed seeking for a direction to the respondents to regularize the petitioner's service in the 2nd respondent college based on the petitioner's representation dated 03.09.2016 and 23.01.2017 pending on file of the 1st respondent within stipulated time may be fixed by this Court.

2.The learned counsel for the petitioner would submit that the petitioner is a physically challenged person. The Department for Rehabilitation of the Disabled has issued the certificate to the petitioner on 19.07.2010 for the physically handicapped person. As per the issuance of the



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card, the nature of the disability is 55%. The petitioner applied for the post of Junior Assistant for the consolidated pay in the respondent's college for the Physically Handicapped person quota. The petitioner was appointed for the post of Junior Assistant in the 2nd respondent College as consolidated pay. The 1st respondent has issued the proceeding dated 15.11.2016 stating the service with effect from 25.06.2011. He would submit that the petitioner completed his service for a period of 7 years i.e., from the year of 2011 till date.

3.The learned counsel for the petitioner would submit that after completion of every 89 days, the 2nd respondent has sent a recommend letter to the 1st respondent for continuing for the service and the post of Junior Assistant periodically was extended from 25.06.2011 till date. During the service period from 2011 till date was calculated for the past 7 years in his service from the date of the appointment. The petitioner requested for several times to the 1st and 2nd respondents for regularizing his service. But, the respondents did not consider for the regularization of the service till date. One C.S. Rameshkumar, who was the junior to the petitioner was regularized



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by the 1st respondent vide Na.Ka.No.B1/05817/2014 dated 30.06.2016. The said C.S.Rameshkumar was appointed on 15.09.2011 as Junior Assistant in the 2nd respondent college for consolidated pay. He would submit that the 1st respondent had issued the proceedings dated 25.08.2014 stating that the consolidated pay of service are working for a continuing 5 years and he has completed his service for the 5 years and he has regularized for his service and after that the pay scale was fixed. As per the proceeding, he is fully qualified person and also the senior most person for regularizing of his service compared with the said C.S.Rameshkumar. Hence, the petitioner sent representations to the 1st respondent dated 08.07.2015, 03.09.2016, 23.07.2017 seeking for regularizing of the petitioner's service but, the 1st respondent did not consider the representation till date.

4.Though the Government Pleader has not filed any counter the 3rd respondent has been *suo moto* impleaded and they were directed to file their counter and from the oral instructions, it was stated that the said University is responsible to decide about the issues. In the counter, it was stated that the petitioner has been appointed by the Bharathidasan University



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vide letter B4/39065/2011 dated 15.12.2011. The petitioner's claim to regularize his service cannot be considered by the 3rd respondent as the petitioner has been appointed by the University as per the prevailing norms of the University and hence, his mode of appointment and all other aspects is being dealt by the University and has nothing to do with 3rd respondent. The proceedings referred by the petitioner is solely issued by the 1st respondent. He would submit that the petitioner was appointed on temporary basis with consolidated pay of Rs. 5500/- per month till date and he has been paid consolidated salary by maintaining consolidated pay service attendance register by the Principal of Bharathidasan University and only on temporary basis. His services were extended from time to time till date. The petitioner was neither selected on permanent basis nor his service was regularized from 01.02.2011. He would further submit that as per Rules, the Teaching/ Non teaching staff recruited and appointed by the concerned university shall be absorbed by the University as and when vacancies arises or till permanent employees are recruited and posted by the Government in their places, whichever is earlier basis only. Further, the Government took the policy decision to undertake the College vide G.O (Ms).No.183, Higher Education



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Department, dated 15.09.2022. The petitioner's representation has been kept pending in the office of the 1st respondent till the Government took the decision to convert the college as Government Arts and Science College, Vedharaniyam. Hence, the 3rd respondent is in no way connected to the regularization of the services of the petitioner in 2nd respondent college. Further, the petitioner has been working in the control of University till 2022. The Government has taken a policy decision to undertake various University Constituent Colleges and for this purpose Government has issued order in G.O (Ms).No. 183 Higher Education department dated 15.09.2022.

5.On a perusal of the records, it is seen that the petitioner has been appointed by the Bharathidasan University and the claim of the petitioner to regularize his service cannot be considered by the 3rd respondent, as the petitioner has been appointed by the 1st respondent/University, as per the prevailing norms of the University. The mode of appointment and all other aspects is being dealt by the University and the University is responsible to decide all the issues. As per Rules, the Teaching/Non teaching staff recruited and appointed by the concerned university shall be absorbed by the



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University as and when vacancies arises or till permanent employees are recruited and posted by the Government in their places, whichever is earlier basis only. That being the case, the claim of the petitioner cannot be considered by the 3rd respondent and only the 1st respondent/University has to decide the issue. Hence, the 1st respondent is directed to consider the representation of the petitioner and take appropriate decision regarding the regularisation within a period of three weeks and pass appropriate orders within a period of twelve weeks from the date of receipt of a copy of this order. No costs.

20.12.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
mps

To

The Director,
The Directorate of College Education,
No.577, Anna Salai, Saidapet,
Chennai-15.



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V.BHAVANI SUBBAROYAN, J,

mps

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