



W.P(MD)No.5255 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5255 of 2023

T.Southamani

... Petitioner

Vs.

The Madurai Kamaraj University,
Rep. by its Registrar,
Madurai, Madurai District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the impugned order passed by the respondent in his proceedings Ref - MKU/Estt-1/2021 dated 25.02.2021 and to quash the same and consequentially directing the respondent to regularize the service of the petitioner as Data Entry Operator on and from the date of completion of 10 years of service as Casual Labourer i.e., 14.11.2015.



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For Petitioner : Mrs.P.Jessi Jeeva Priya

For Respondent : Mr.T.Sakthi Kumar,
Standing Counsel.

ORDER

Heard the learned counsel on either side.

2.The petitioner is working as Causal Labourer on consolidated pay in the Research Section of the respondent University. The respondent called for applications for the post of Computer Programmer / Data Analyst / Data Entry Operator in the year 2005. The petitioner applied in response thereto. Certificate verification was held on 26.10.2005 and interview was held on 27.10.2005. The petitioner was selected for the post of Date Entry Operator and the petitioner's appointment was approved by the Syndicate on 04.11.2005. The petitioner has been working in the said capacity ever since. He sought the relief of regularization. However, his request was rejected vide proceedings dated 25.02.2021. Challenging the same, the present writ petition came to be filed.



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3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed.

4.The respondent has filed counter affidavit and the learned standing counsel took me through its contents. The learned standing counsel pointed out that the petitioner was not sponsored by the employment exchange. He also would argue that granting relief would open pandora box. I am conscious of the fact that the writ petition filed by a similarly placed individual was allowed by this Court. The learned standing counsel submitted that the order dated 01.12.2022 made in W.P.(MD)No.12554 of 2022 has been put to challenge in W.A.(MD)No.981 of 2023. He therefore called upon this Court to dismiss this writ petition or in the alternative keep the writ petition pending till the disposal of the writ appeal.

5.I carefully considered the rival contentions and went through the materials on record. One K.Ravikumar filed W.P.(MD)No.12554 of 2022



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on similar set of facts. The said writ petition was allowed by me on 01.12.2022 in the following terms:-

“5. I carefully considered the rival contentions and went through the materials on record. Though the petitioner was appointed only as Casual Labourer in the year 2005, it was not a back door entry. The University had published notification calling for applications from eligible candidates seeking appointment as Casual Labourer on consolidated basis. The University issued call letter dated 13.10.2005 calling upon the petitioner to attend interview on 26.10.2005. The petitioner was subjected to selection process. Proper resolution was passed by the appointment committee and that is how the petitioner came to be appointed on 14.11.2005. The petitioner has been serving the University without any break for the last 17 years.

6. My attention is drawn to the resolution passed by the syndicate of the respondent University on 12.08.2005. The resolution reads that the consolidated pay Casual Labourers and Casual Labourers on daily wages be allowed regular time scale of pay if they completed 10 years of service. This resolution has not been rescinded till date. I can understand the objection of the University if it



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is claimed that the cadre strength will be exceeded. Admittedly, it is stated that regular vacancies were available when he completed 10 years and even as on date. It is well settled that relief of regularisation can be given only in favour of the person who is still in service. That apart, he has to bring his case within the extant norms. The petitioner is able to fulfil both the conditions.

7.The learned counsel appearing for the petitioner relies on order dated 29.04.2014 passed by the Hon'ble Division Bench in W.A(MD)Nos.351 of 2012 etc. The Hon'ble Division Bench had held as follows:

“18. If the posts sanctioned by the Finance Committee are to be filled up by the University on a regular basis, the University would have to go to in for a fresh direct recruitment. As per the statutes of the University, such regular process of selection will be through a written examination followed by viva voce. The respondents in these cases, were actually sponsored through employment exchange. They were made to appear for written examination. Those who were short listed in the written examination were interviewed and the respondents were selected. Therefore, despite the fact that they were appointed temporarily on daily wages basis, the respondents herein have fulfilled the qualifications prescribed for the posts and they were selected by the very same method of recruitment prescribed for regular selection.



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*only from the date of the impugned order. The order
impugned in this writ petition is set aside.*

9.This writ petition is allowed. No costs.”

6.The case on hand is absolutely similar. There is no reason to
treat the petitioner on a different footing. The order impugned in this
writ petition is set aside and the writ petition is allowed. No costs.

30.06.2023

NCC : Yes/No
Index : Yes / No
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G.R.SWAMINATHAN, J.

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