



W.P(MD)Nos.6179 of 2023 etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.6179, 9262, 14409 & 14350 of 2023 &
W.P.(MD)Nos.11683, 11684, 11685, 9262, 10446, 11589, 12315,
12815, 12889, 12956, 14210, 14211, 14212, 18869, 19084, 19123 &
19181 of 2022

and

W.M.P.(MD)Nos.8264, 8272, 8274, 7517, 8190, 8745, 9093, 9147, 9203,
10155, 10156, 10163, 13769, 13937, 13961, 13984 & 8852 of 2022 &
W.M.P.(MD)Nos.12160 & 12161 of 2023

In W.P.(MD)No.6179 of 2023

P.Karuppasamy

... Petitioner

Vs.

1.The Vice Chancellor,
Madurai Kamaraj University,
Madurai-625 021.

2.The Registrar,
Madurai Kamaraj University,
Madurai 625 021.

3.The Public Relation Officer,
Madurai Kamaraj University,
Madurai-625 021.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying
this Court to issue a Writ of Mandamus, to direct the respondents to restore the service



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of the petitioner in the Respondent Madurai Kamaraj University with all arrears of salary from 08.04.2022 and consequently, regularize the petitioner in service for the post of Assistant to the Food and Beverages Manager and as per Section 3 of the Tamil Nadu Conferment of Permanent Status of Workmen Act, 1981, by considering the petitioner's representation dated 10.09.2022 & 22.01.2023.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.T.Cibichakraborty
Standing Counsel

COMMON ORDER

Heard the learned counsel appearing for the writ petitioners and the learned standing counsel appearing for the Madurai Kamaraj University.

2. The writ petitioners herein have been working on consolidated pay in the respondent university. They were disengaged. They seek restoration of their services. They also contend that after terminating them, the University has recruited candidates from open market in temporary capacity.

3. The respondent University has filed its counter affidavit. The learned standing counsel took me through its contents. The stand of the University has been set out in the counter affidavit. Paragraph Nos.21 to 30 of the counter affidavit read as follows:-



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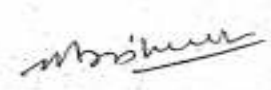
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21. I state that in the above backdrop, various teaching and non-teaching posts fell vacant either due to retirement or death or resignation. When the University made request to the Finance Committee to fill up those vacancies on regular basis, such requests were deferred in view of the financial status of the University. Hence, to meet out the workload, the University engaged several candidates purely on temporary basis either as consolidate pay employee [which is otherwise called as 'Consolidate Pay Casual Labours (CPCLRs)] or as daily wagers [which is otherwise called as 'Consolidate Pay Casual Labours (CPCLRs)].

22. I state that they were appointed by the concerned Departments without following regular selection process by inviting applications from the open market through News Paper Notification and calling upon eligible candidates through

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employment exchange. No Rule of Reservation was also followed at the time of their appointment.

23. That apart, some of the candidate came to be engaged not by the University but by the individual Departments towards implementation of specific Projects and schemes introduced by the University, State Government, Central Government, UGC or other educational bodies. They were not engaged in regular sanctioned posts of the University. They were engaged by the concern Department for completion of time bound project or scheme and they have to leave the University once their project or scheme gets over. Accordingly, several candidates engaged under the Project or Scheme got relieved immediately after completion of their Project or Scheme. Some of them were retained by other Departments for other Schemes or Projects and some of them were also engaged as CPCLRs or CLRs in the University purely on temporary basis as per the need.

24. I respectfully submit the CPCLRs and CLRs do not possess proper appointment order. Wherever appointment orders are issued, it was issued with the specific condition that they are appointed purely on temporary basis and they were required to give their consent for accepting the employment on temporary basis. As such, the CPCLRs and CLRs in the University are well aware of the fact that they are not in the regular employment and they will be disengaged when the University feels their services are

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no longer required. Therefore, those employees cannot seek for any permanent status.

25. I state that while this being so, at the time of discussion about the steps to be taken to get over from the financial crisis faced by the University, the Finance Committee had directed the University to submit that details about total Administrative & Technical Staff strength of Registrar Wing, Examination Wing, Directorate of Distance Education and other Departments. On verification of cadre strength excluding the Administrative Staff (Vice-Chancellor, Registrar, Controller of Examination, Finance Officer, Additional Controller of Examinations, Dean-College Development Council, Director of DDE and Deputy Finance Officer) as per the University Statutes, the total sanctioned strength comes to 975 as per the Budget sanction of the year 1996.

26. I state that out of the 975 posts, 429 posts in the Clerk and Class IV category is lying vacant i.e., 225 posts in Clerk cadre and its equivalent cadre (Clerks - 177 + others - 48 = 225) and 204 posts in Class IV and its equivalent category (Class IV- 185 + others 19 = 204). It is not that those 429 is lying vacant without any staff. The University had engaged CPCLRs and CLRs in those posts on temporary basis. The total CPCLRs and CLRs engaged were 286 and 277 respectively, totaling 563. As such, as against the total vacancy of 429 Clerks and Class IV employees, 563 CPCLRs and CLRs were engaged and thereby, 135 CPCLRs and

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CLRs were engaged in excess. Of the 134 excess employees, 48 are CPCLRs and 86 are CLRs.

27. I state that when the above cadre strength was submitted to the Finance Committee in the year 2021, the Committee directed the University to submit the total expenditure met by the University towards the payment of monthly salary to those 134 excess CPCLRs and CLRs. The University found that the total expenditure incurred towards payment of monthly salary to those 134 excess CPCLRs and CLRs comes around Rs. 15 Lakhs per month.

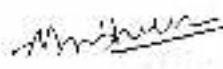
28. I state that the Finance Committee met on 20.12.2021, in the office of the Principal Secretary to Government, Higher Education Department; considered the above details and resolved to reduce the CPCLRs and CLRs over and above the sanctioned strength on 'Last Come First Go' basis. It was further resolved as under;

"Resolved that it be a recommendation to the syndicate that the excess numbers of CPCLRs and CLRs engaged over and above the sanctioned strength in the feeder category shall be removed immediately and further resolved that rationalization of administrative staff shall be made in the second phase."

29. I state that the above recommendation of the Finance Committee was placed before the University Syndicate met on 22.03.2022 and it was resolved to implement that

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recommendation of the Finance Committee meeting held on 22.12.2021 and to remove the excess CPCLRs CLRs on or before 06.04.2022. The resolution of the Syndicate is extracted hereunder;

"Resolved to implement the minute of the meeting of the Finance Committee held on 20.12.2021 (Additional Item No. 1) regarding excess number of CPCLRs and CLRs engaged over and above the sanctioned strength shall be removed before 06.04.2022."

30. I state that on considering the process of removing the excess CPCLRs and CLRs, the University found that the 1st CPCLRs beyond the sanctioned strength was on 10.04.2013. Hence, the University fixed 10.04.2013 as cut-off date. From 10.04.2013, totally 135 CPCLRs and CLRs were engaged in the University. Accordingly, the name list of all the 135 CPCLRs and CLRs was prepared and their names were separately forwarded to their concerned departments and they were instructed not to come to the University from 06.04.2022. Accordingly, all the 135 CPCLRs and CLRs were removed and they are now not in the employment of the University including the petitioner herein.



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He submitted that the petitioners have no legal right as such and that no relief can be granted in this writ petitions.

4. I carefully considered the rival contentions and went through the materials on record. The petitioners herein may not have legal right to seek reinstatement as such. But having disengaged the writ petitioners, the University cannot resort to recruitment of temporary employees in their places. That would be clearly illegal. Of-course, the University can fill up the posts in question on regular basis.

5. The learned standing counsel clarify that the University will prepare the seniority list of the disengaged employees. In the said seniority list, their dates of original appointment, number of days put in by them as well as the Section or Department in which they were working will be duly reflected. The petitioners will be taken back subject to preference and priority to the seniors among them as and when appointments are made in temporary or consolidated capacity in the vacancies in the respective department. The exercise of preparation of seniority list will be completed within a period of eight weeks from the date of receipt of a copy of this order and copy of the same will be served on the learned counsel for the petitioners.



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6. Recording the aforesaid stand of the University, these Writ Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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