



W.P(MD)No.7152 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 14.06.2023

Pronounced on : 21.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7152 of 2023

and

W.M.P.(MD)No.6752 of 2023

- 1.S.Kavin
- 2.S.Sundar
- 3.S.Johny
- 4.S.P.Mathavan
- 5.S.Lakshmanan
- 6.N.Suthendren
- 7.A. Vijayalekshmi
- 8.T.K.Suvitha
- 9.A.Elango
- 10.S.Premalatha
- 11.J.Helen
- 12.B.Bexel
- 13.R.Sahaya Sudha
- 14.N.Bama
- 15.Dialin J.Dev
- 16.A.Rathnakumar

1/10



W.P(MD)No.7152 of 2023

17.P.Vasanthi

18.Jaslin J.Christopher

19.K.Jemila Rose

20.M.Sheriba

21.E.Shiny Edmund

22.D.Sharmila

23.M.J.Jarald Brigit Gilda

24.K.Jemila

25.C.Meenakshi

26.M.Nagarajan

27.G.Janita Christobel

28.L.T.Saji

29.T.Revathi

30.S.Santha Kumari

31.R.Santhi

32.R.Arulpa Pepin Raapitha

33.D.Jenisha

34.A.R.Sindhu

35.I.Kannan

... Petitioners

Vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Higher Education Department,
Fort St.George, Chennai – 600 009.

2.The Director / Commissioner of Collegiate Education,
DPI Complex, College Road, Chennai – 600 006.

2/10



W.P(MD)No.7152 of 2023

3.The Joint Director of Collegiate Education,
Gandhi Nagar, Pazhayapettai Road,
Thirunelveli District – 627 008.

4.Manonmaniam Sundarnar University,
Represented by Registrar,
Abishekapatti,
Thirunelveli District – 627 012.

... Respondents

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 records of the minutes of the meeting held on 01.11.2022 and 02.11.2022 held in the chamber of the principal Secretary of the 1st Respondent sent along with the letter having reference No.Letter No.10829/G1/2022 dated 09.11.2022 and quash the decision relating to the permanent / temporary staff appointed by the Universities may be allowed to continue in converted Government Colleges on deputation basis till such time the posts are filled up by Director of Collegiate Education insofar as the petitioners are concerned and issue a direction to the 2nd and 3rd respondents to forthwith call the petitioners for certificate verification and regularize the service of the petitioners in the post of Assistant Professors from the date of their initial appointment as Temporary Assistant Professors in the constituent college of the 4th respondent university and fix them in the time scale of pay on par with directly appointed Assistant Professors as per the UGC norms in various universities.



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W.P(MD)No.7152 of 2023

For Petitioners : Mrs.Nalini Chidambaram, Senior Counsel,
For Mr.S.Karthik

For Respondents : Mr.Veerakathiravan,
Addl. Advocate General,
Assisted by Mr.N.Satheesh Kumar,
Addl. Government Pleader for R1 to R3.
Mr.M.Mohaboob Athiff,
Standing Counsel for R4.

ORDER

The writ petitioners were appointed in the constituent college of Manonanmaniam Sundaranar University in Kanyakumari District as Assistant Professors as temporary lectures. The Government had taken a policy decision to convert all such constituent colleges run by various universities into regular Arts and Science Colleges. A policy decision was taken on 02.11.2022 that the temporary staff will be allowed to continue in the converted government colleges on deputation basis till such time the posts are filled on regular basis. In that event, the said staff will have to go back to the university concerned at that point of time. Challenging the said policy decision, the present writ petition came to be filed.



W.P(MD)No.7152 of 2023

WEB COPY

2.Since the Government contended that the policy decision is in accord with G.O.(Ms)No.36, Higher Education Department dated 28.02.2019, an amendment petition was filed impugning the said government order also.

3.The learned senior counsel for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. The contention of the learned senior counsel is that the petitioners did not gain entry through back door. They were appointed as temporary lectures in the first place only through a regular selection process. The petitioners are having the requisite educational qualification. They have also cleared SLET / NET. They have put in service for quite a few years. Therefore, it would be inequitable to retain them only on deputation basis. This is because the fate of the petitioners will be kept hanging in the balance because one day they will have to vacate when the vacancies are filled up on regular basis. The petitioners have been working for the last several years on a consolidated pay of Rs.20,000/- only even through similarly placed temporary lectures in



W.P(MD)No.7152 of 2023

other universities have been drawing sums in the range of Rs.70,000/- per month. The learned senior counsel relied on the decision of this Court in W.P.Nos.35127 of 2014 etc in support of her contention that considering the facts and circumstances of the case, the petitioners deserve to be regularized as Assistant Professors in the converted government colleges. She called upon this Court to grant relief as prayed for.

4.The respondents have filed counter affidavit and the learned Additional Advocate General took me through its contents and contended that no case for granting relief has been made out.

5.The learned standing counsel for the fourth respondent also submitted that while the university may not have much to say on whether the petitioners have to be regularized or not, he shed light on the manner in which the petitioners were originally appointed. He would also state that the petitioners cannot make any claim against the university as of right.



W.P(MD)No.7152 of 2023

6.I carefully considered the rival contentions and went through the materials on record. The foremost contention advanced by the learned senior counsel is that the petitioners are not back door entrains and that they were appointed through a regular selection process. Technically the learned standing counsel is right in her contention. But the learned standing counsel for Manonanmaniam Sundaranar University would point out that Section 44 of the Manonanmaniam Sundaranar Act, 1990 provides for constitution of selection committee for making recommendations to the Syndicate for the appointment to the posts of Professor, Assistant Professor, Reader, Lecturer and Librarian of the institutions maintained by university. The members constituting the said selection committee had also been set out in Section 44(2) of the Act.

7.While Section 44(2) of the Act deals with appointments as regular staff, Section 44(7) of the Act deals with the appointments on temporary basis. As far as temporary staff are concerned, the selection is done by what is known as local selection committee. Thus, there is a fundamental and qualitative difference between those appointed on a regular basis and those appointed on temporary basis. The composition



W.P(MD)No.7152 of 2023

of the committee is also different. Therefore, a person appointed by a local selection committee as a temporary staff cannot compare himself with a person selected by a committee referred to under Section 44(2) of the Act.

8.It is true that the petitioners possess the requisite qualification for the post of Assistant Professors and an advertisement was also issued by the university. I went through the contents of the said advertisement. It is stated that applications are invited for filling up temporary Assistant Professors. This being the notification, obviously, not every eligible person would have competed or taken part in the selection process.

9.Now that the constituent colleges have been converted into government colleges, the Government is entitled to fill them up through regular selection process ie., through Teachers Recruitment Board. In such cases, the field of competition will be wide and it would certainly attract a large number of applicants. The petitioners also cannot have any legitimate expectation as such. Looked at from any angle, I do not find any ground to grant relief. As and when the regular selection process



W.P(MD)No.7152 of 2023

takes place, the petitioners also will be entitled to take part therein subject to fulfillment of other norms. It is apprehended that age may come in the way. The petitioners are permitted to submit a representation to the Government. The petitioners can also pray for age relaxation. It is open to the Government to take into account the past service put in by the petitioners and permit the petitioners to participate in the future selection process. The Government shall take a decision on the petitioners' request well before the next recruitment process commences.

10.This writ petition is dismissed accordingly. No costs.
Consequently, connected miscellaneous petition is closed.

21.06.2023

NCC : Yes/No
Index : Yes / No
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W.P(MD)No.7152 of 2023

G.R.SWAMINATHAN, J.

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To:-

- 1.The Principal Secretary,
Higher Education Department,
Fort St.George, Chennai – 600 009.
- 2.The Director / Commissioner of Collegiate Education,
DPI Complex, College Road, Chennai – 600 006.
- 3.The Joint Director of Collegiate Education,
Gandhi Nagar, Pazhayapettai Road,
Thirunelveli District – 627 008.

W.P(MD)No.7152 of 2023

21.06.2023
(2/2)

10/10