



W.P.(MD)Nos.1695, 1702 & 1703 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos. 1695, 1702 & 1703 of 2016

and

W.M.P(MD)Nos. 1449 & 1459 & 1460 of 2016

K.Muruganantham	...	Petitioner in W.P.(MD)No.1695 of 2016
M.Rameshkumar	...	Petitioner in W.P.(MD)No.1702 of 2016
C.Ranjithkumar	...	Petitioner in W.P.(MD)No.1703 of 2016

Vs.

Tamil University,
Represented by its Registrar,
Thanjavur – 613 010.

... Respondent in all the
Writ Petitions

COMMON PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of *Writ of Mandamus*, forbearing the respondent and their officials from discounting the services of the petitioners till the work to which he is appointed is available and continue to exist.



W.P.(MD)Nos.1695, 1702 & 1703 of 2016

WEB COPY

In all the writ petitions

For Petitioners : No appearance

For Respondents : No appearance

COMMON ORDER

These writ petitions are filed for *Writ of Mandamus* forbearing the respondent and their officials from discounting the services of the petitioners till the work is available and continue in exist for which the petitioners are appointed.

2. The issues involved in these Writ Petitions are one and the same and hence all the writ petitions are taken up together and this common order is passed.

3. The contention of the petitioners is that the sweepers and scavengers belong to basic service. Except the age prescribed for each reserved communities, there is no educational or other qualification prescribed for recruitment in the post of Sweepers and Scavengers.



W.P.(MD)Nos.1695, 1702 & 1703 of 2016

WEB COPY

4. The respondents University had appointed 13 sweepers on regular basis with time scale of pay. However, two other persons were appointed in order to meet contingency whenever the regular sweeper / scavenger goes on leave or absence for duty.

5. In the University there are 83 rooms each for the women and men hostels. Moreover, the University had decided to construct massive buildings, however, no additional posts were created to look after the work for sweeping, dusting, mobbing and cleaning in all the above places. Therefore, the syndicate in his meeting, dated 24.02.2015 under resolution No.2015/14 decided to create nine additional posts of sweepers, so as to meet the additional need and requirements as stated above. Thereafter the University decided to seek sanction and approval from the Government and submitted the proposal. In the same resolution, pending approval from the Government, the University decided to appoint four persons as sweepers on temporary basis and pay on daily wages from the University funds.



W.P.(MD)Nos.1695, 1702 & 1703 of 2016

WEB COPY

6. The petitioners came to know that the respondents are going to appoint persons on temporary basis, had submitted application. Thereafter the respondents have selected and appointed four persons as temporarily sweepers on daily wage basis, at rate of Rs.231/-per day. In the said appointment order, dated 27.03.2015 itself been stated that the appointment would be either for 80 days or till their services were required.

7. The contention of the petitioners is that though the work is perennial in nature, the respondents have fixed the condition, as if the employment is existing for a particular period. The respondents in order give artificial break in service has resorted to such method of appointment. Subsequently, the petitioners and others were granted extension by issuing further appointment orders. Even though, four persons were appointed, only three persons are continuing and one person namely, Muthumaran has left the job.

8. The petitioners further states that one Mr.Joseph, who was appointed and promoted as Supervisor. Though, he was promoted as Supervisor,



W.P.(MD)Nos.1695, 1702 & 1703 of 2016

WEB COPY

he was directed to carry out the work of Sweeper. Since he is not willing to carry out the work of Sweeper, in order to help him he was accommodated in the Palace Museum. Since the said Joseph has left, one M. Murugesan, of the above Association was given designation of Supervisor in-charge. Subsequently, the said Joseph was called back from Palace Museum and allotted the work of supervisor, but without any condition. This was done in order to victimize the said Murugesan. In the above circumstances, the respondents have restricted the period of petitioners' employment in the order, dated 17.12.2015 to 62 days, instead of issuing order for 80 days, as given earlier. Moreover, the petitioners were insisted to come out of the association. If they refused to come out of the association, the petitioners were threatened that they will be sent out of the employment after the period of expires i.e., after 13.01.2016. Therefore, the petitioners withdrew the said letter, dated 11.01.2016, but now the respondents are taking steps to stop the petitioners from job from 30.01.2016 onwards and the respondents are preparing to appoint fresh persons in the said place. Aggrieved over the same, these writ petitions are filed.



W.P.(MD)Nos.1695, 1702 & 1703 of 2016

WEB COPY

9. At the time of admission, this Court has granted an interim order, on 27.01.2016. The respondents have filed counter whereby it is submitted that the contention of the petitioners that they were selected by Committee, issued appointment orders, that their job is permanent one and the work is perennial in nature are denied. The petitioners were engaged for temporarily for 80 days only and was reengaged for further few days. While engaging the petitioners' recruitment rules were not followed, the respondents have not issued any advertisement in the paper. The membership issue is nothing to do with the service of the petitioners. The petitioners are unnecessarily dragging the said issue in the issuance of appointment order. Both are independent and separate issues. Moreover, the respondents have not concerned with the membership issue which is an internal issue among the association. Therefore, the respondents prayed to dismiss these writ petitions.

10. On perusal of the affidavit and counter affidavit, it is seen that the petitioners were appointed on temporary basis. Subsequently, it was extended periodically. As rightly pointed out by the respondents that there is no proper



W.P.(MD)Nos.1695, 1702 & 1703 of 2016

WEB COPY

recruitment process. The respondent university already engaged the regular Sweepers and Scavengers and they are paid under time scale of pay. When the additional building was constructed, the respondents have engaged these petitioners by creating four new posts and it is only one temporary basis.

11. The very prayer in the writ petitions is to forbearing the respondent and their officials from discontinuing the service. Moreover, their engagement is without following any recruitment rules. Therefore, this Court is of the considered opinion that any appointment dehors rules and procedure cannot be accepted and the petitioners are not having any right to the said appointment.

12. Therefore, this Court is not inclined to entertain these writ petitions. It is seen, based on the interim order, these petitioners are still working in the said post. The respondents are at liberty to appointment permanent employee by following recruitment rules and procedure. The respondents are at liberty to continue the petitioners in the said job until the permanent employees are appointed. However, the petitioners are not having any right to the said post. In future if the respondents are intended to go for recruitment process the



W.P.(MD)Nos.1695, 1702 & 1703 of 2016

WEB COPY

petitioners are at liberty to participate in the recruitment process and the respondents may consider to grant any weightage for the past service.

13. Accordingly, these writ petitions are disposed of. No Costs.

Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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01.06.2023



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W.P.(MD)Nos.1695, 1702 & 1703 of 2016

S.SRIMATHY, J

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**Common Order made in
W.P.(MD)Nos. 1695, 1702 &
1703 of 2016**

01.06.2023