



W.P.No.8486 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.8486 of 2024
and W.M.P.No.9434 of 2024

1. M.Krishnakumar
2. S.Ayyasamy
3. R.Bharanidharan
4. G.Geetha
5. S.Udhayakumar
6. P.Vimala
7. D.Amutha
8. S.Murugaboopathi
9. K.Muruganandham
10. T.Velayudam
11. T.Gunasekaran
12. R.Kumaravel
13. S.Antonidoss
14. R.Arumugam
15. E.Ravichandran
16. M.Deivasigamani
17. S.Ramachandran
18. R.Velmurugan
19. K.Jayasudha
20. V.M.Arivazhagan
21. S.Moorthy
22. P.Rajavelu
23. K.Sambath Kumar
24. A.N.Gnanasekar
25. M.Rajeshkanna



W.P.No.8486 of 2024

26. B.Sasikala
27. G.Ravindran
28. S.Velayudham
29. K.U.Gandhi
30. B.Anbalagan
31. P.Selvakumar

... Petitioners

-Vs-

1. The State of Tamil Nadu,
represented by its Principal Secretary to Government,
School Education Department,
Fort St.George, Chennai – 600 009.
2. The Director of Public Libraries,
No.737, Anna Salai,
Chennai – 600 002.
3. The District Library Officer,
Salem District,
Salem.
4. The District Library Officer,
Chennai District,
Chennai.
5. The District Library Officer,
Mayiladuthurai District,
Mayiladuthurai.
6. The District Library Officer,
Nagapattinam District,
Nagapattinam.
7. The District Library Officer,
Tiruvarur District,
Tiruvarur.



W.P.No.8486 of 2024

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8. The District Library Officer,
Thanjavur District,
Thanjavur.
9. The District Library Officer,
Villupuram District,
Villupuram.
10. The District Library Officer,
Tiruvannamalai District,
Tiruvannamalai.
11. The District Library Officer,
Trichy District,
Trichy.
12. The District Library Officer,
Vellore District,
Vellore.
13. The District Library Officer,
Tiruvallur District,
Tiruvallur.
14. The District Library Officer,
Chengalpattu District,
Chengalpattu.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to regularize the petitioners in the post of Grade III Librarian from the date of their initial appointment as Village Assistants.

For Petitioners : M/s N.Kavitha Rameshwar
For Respondents : Mrs.S.Mythreye Chandru
Special Government Pleader



W.P.No.8486 of 2024

ORDER

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This writ petition has been filed for direction directing the respondents to regularize the petitioners in the post of Grade III Librarian from the date of their initial appointment as Village Assistants.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioners are working as Village Librarians in the District Village library in the concerned districts. Thereafter, they were placed on Special Time Scale of pay in view of the G.O.Ms.No.308 School Education K1 Department dated 30.11.2009. The details of the petitioners in respect of their appointment and place of work are as follows:-

<i>S.No</i>	<i>Petitioner's name</i>	<i>Date of Appointment</i>	<i>Place of work</i>
1.	M.Krishnakumar	27.02.2013	Police Quarters Library
2.	S.Ayyasamy	27.08.2012	Chittampoondi
3.	R.Bharanidharan	27.08.2012	Valivalam



W.P.No.8486 of 2024

S.No	Petitioner's name	Date of Appointment	Place of work
4.	G.Geetha	26.02.2013	Kaththiruppu
5.	S.Udhayakumar	26.02.2013	Seenivasapuram
6.	P.Vimala	26.02.2013	Kameshwaram
7.	D.Amutha	27.08.2012	Keezhaiyur
8.	S.Murugaboopathi	27.08.2012	Valivalam
9.	K.Muruganandham	27.08.2012	Thiruvilaiyattam
10.	T.Velayudam	27.08.2012	Thevur
11.	T.Gunasekaran	26.02.2013	Annappanpettai
12.	R.Kumaravel	26.02.2013	Thalainayeru
13.	S.Antonidoss	26.02.2013	Kattucherry
14.	R.Arumugam	27.08.2012	Searanur
15.	E.Ravichandran	27.08.2012	Nergunam
16.	M.Deivasigamani	27.08.2012	Nergunam
17.	S.Ramachandran	27.08.2012	Nedumozhiyanoor
18.	R.Velmurugan	27.08.2012	Poonur
19.	K.Jayasudha	27.08.2012	Vanagiri Kuppam
20.	V.M.Arivazhagan	26.02.2013	Thusi
21.	S.Moorthy	29.08.2012	Thiruvissainallur
22.	P.Rajavelu	27.08.2012	Thirupoondi
23.	K.Sambath Kumar	26.02.2013	Mematthur
24.	A.N.Gnanasekar	29.08.2012	Thumbikullam
25.	M.Rajeshkanna	30.08.2012	Urakkarai
26.	B.Sasikala	27.02.2013	Vannarapettai
27.	G.Ravindran	26.02.2013	Reddimangudi
28.	S.Velayudham	23.08.2013	Palavakkam



W.P.No.8486 of 2024

S.No	<i>Petitioner's name</i>	<i>Date of Appointment</i>	<i>Place of work</i>
29.	K.U.Gandhi	01.09.2012	Karadikuppam
30.	B.Anbalagan	27.08.2012	Melarasampet
31.	P.Selvakumar	27.08.2012	Kottaththur

4. The post of Village Librarian was created by virtue of G.O.Ms.No.66 Education, Science and Technology (K1) Department dated 30.01.1996. Further as per Section 45(4)(b) of the Tamil Nadu Public Libraries Act, 1948, the Government has to start one branch library for each town i.e., locality with a population between 5000 to 50000.

5. The case of the petitioner is that the qualification for the Village Librarian and Grade III Librarian are one and the same. Further, the said post of Village Librarian does not find a place in the Tamil Nadu Public Libraries Act, 1948. Therefore, even after completion of more than ten years of their service, they were denied the benefit of promotion and other benefits. They have not been regularized in the post of Grade III Librarian, which carries higher pay and emoluments. Therefore, the petitioners submitted representation seeking regularization in the post of Grade III Librarian.



W.P.No.8486 of 2024

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6. In similar matters, similarly placed persons approached this Court in W.P.No.8937 of 2015 and this Court, by an order dated 23.08.2022, rejected the claim of the petitioner. The relevant portion of the said order reads as follows:-

“ 10. During the arguments in the present writ petition, it is brought to the notice of this Court that the benefit of regularization and permanent absorption was granted by the District Library Officer, Salem in violation of the Government orders and without the prior permission of the Government, which is mandatory. In other words, the District Library Officer, Salem has passed some illegal orders without obtaining prior permission or an intimation to the Government, regularized the services of certain employees on extraneous considerations. When it was brought to the notice of this Court by the learned counsel for the petitioners that such benefits are granted to those persons, the similar benefits are extended to the writ petitioners. This Court directed the learned Additional Advocate General to verify the sanctity of the said order and on verification, the Director of Public Libraries placed on record that it is an illegal order passed by the District Library Officer, Salem, without obtaining prior permission either from the Director of Public Libraries or from the Government as per the Government orders in force and all appropriate actions are taken to cancel the order by following the procedures and to initiate action against the officials, who all are responsible and accountable for such illegalities. It is made clear that further enquiry is also to be conducted, if required, through the Department of Vigilance and Anti-Corruption.

11. It is made clear that the Director of Public



WEB COPY



W.P.No.8486 of 2024

Libraries is duty bound to verify, whether any such illegal orders are passed by any other District Library Officer in any District across the State of Tamilnadu. If any such informations are provided, immediate actions are to be taken by the Head of the Department as per law.

12. Regularisation or permanent absorption can never be claimed as a matter of right. Regularisation is to be granted strictly in accordance with the rules in force. The claim of the writ petitioners are that their services in the post of Village Librarian is to be regularised for all purposes to get the service benefits. However, the fact remains that the post of Village Librarian is an unclassified post and not falling under the cadre strength and the appointments are made through the District Employment Exchange on consolidated pay salary and therefore, the post of Village Librarian forms a separate category to maintain the Libraries in villages and it is a part-time job. When the post of Village Librarian is a part time job and the persons were appointed on consolidated pay salary, their services cannot be regularized in the post of Village Librarian.

*13. Regarding the part-time employment, the Hon'ble Supreme Court of India in the case of **Secretary to Government School Education Department, Chennai vs. R.Govindaswamy and others** reported in (2014) [4] SCC 769, held as follows:*

“8(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality clause contained in Articles 14 and 16 should be



WEB COPY



W.P.No.8486 of 2024

scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be “litigious employment”. Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right.

(iii) Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.

(iv) Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for



W.P.No.8486 of 2024

absorption, regularisation or permanent continuance of part-time temporary employees.

(v) Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.” (Emphasis added)

14. In the present case, the petitioners were appointed as Grade-III Librarian on regular basis in the time scale of pay with effect from the year 2006. Such an absorption itself is a concession extended by the Government by considering the long services rendered by these writ petitioners in the post of Village Librarian. Thus, the Government granted the benefit of regularisation from the date on which the petitioners were appointed as Grade-III Librarian in the sanctioned post in the time scale of pay. Thus, there is no infirmity in respect of the regularisation done in favour of the writ petitioners in the post of Grade-III Librarian, which is a sanctioned post in the department of Public Libraries.

15. As far as the retrospective regularisation is concerned, it is made clear that the petitioners were appointed in the sanctioned post in the time scale of pay and they were appointed as Village Librarian on consolidated pay salary, which is an unclassified post and more so, a part-time job. Thus, the retrospective regularisation in the post of Village Librarian cannot be granted and the petitioners had been extended the benefit of regular appointment in the sanctioned post of Grade-III Librarian. The said absorption itself is a concession extended to the



W.P.No.8486 of 2024

WEB COPY

*writ petitioners, considering the long services rendered by them in the post of Village Librarian and therefore, the claim of the writ petitioners for retrospective regularisation deserves no merit consideration and the benefit of regularisation and permanent absorption already granted with effect from the date of appointment of the writ petitioners as Grade-III Librarian is in consonance with the principles laid down by the Constitution Bench of the Hon'ble Supreme Court of India in the case of **The Secretary, State of Karnataka and others v. Uma Devi & others** reported in (2006) 4 SCC 1. Thus, there is no perversity or otherwise in the matter of grant of regularisation to the writ petitioners in the post of Grade-III Village Librarian.*

16. As far as the illegal orders passed by the Subordinate authorities without the permission of the Head of the Department of the Government are concerned, strict actions are to be initiated to prevent any further illegality or corrupt practices or paving way for other unclassified persons to claim similar benefits or otherwise. Such actions are directed to be initiated immediately by the Head of the Department / The Director of Public Libraries as it will lead to several illegalities and corrupt activities in the Department.”

7. In view of the above, the claim of the petitioner cannot be considered and this writ petition is devoid of merits and is liable to be dismissed.



W.P.No.8486 of 2024

WEB COPY

8. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

27.03.2024
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Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
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WEB COPY

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W.P.No.8486 of 2024

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W.P.No.8486 of 2024

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W.P.No.8486 of 2024

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