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W.P.Nos.11680 of 2022, etc batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2024

CORAM:

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

W.P.Nos.11680, 11689, 11692, 11693 & 11694 of 2022 and
WMP.Nos.11141, 11143, 11148, 11150 & 11155 of 2022

WP.No.11680 of 2022

M.Santhi

... Petitioner

Vs.

- 1.The Government of Tamilnadu,
rep. By its Secretary,
Labour, Welfare and Skill Development(C1) Department
- 2.The Director of Employment and Training,
Guindy, Chennai-32
- 3.The Regional Joint Director,
Salem

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India
praying to issue Writ of Mandamus directing the second respondent to
absorb the petitioner as a Junior Training Office(COPA) under the third
respondent in terms of the proposal dated 13.02.2019, 15.09.2019 and
19.11.2019 respectively made in Na.Ka.No.39467/2017 on the basis of



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the representation dated 13.04.2018 with all attendant service benefits.

For Petitioner
in all WP's : Mrs.G.Thilagavathi,
Senior Counsel
Mr.R.Gopinath

For Respondents
in all WP's : Mrs.R.L.Karthika,
Government Advocate

COMMON ORDER

These writ petitions have been filed for direction to the second respondent to absorb the petitioners as Junior Training Officer under the third respondent in terms of the proposal sent by the second respondent.

2. In pursuant to the Government order in GO.Ms.No.238 Labour and Employment(S) Department dated 02.12.2003, permission was given to fill up Junior Training Officers in their respective trades along with necessary support staff like Instructors, Store Keepers, Watchmen on contract basis for a period of one year. Accordingly, finance was allocated for infrastructure establishment to meet out the expenditure for staff and other recurring expenditures. Accordingly, the



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petitioners were appointed by the second respondent as Instructors on consolidated salary subject to terms and conditions of appointment dated 06.08.2010. Their salary was increased and finally they were paid Rs.20,000/- per month. The nature of work and responsibilities and the volume of work of the petitioners were identical to the work executed by Junior Training Officers on a time scale of pay in the Government Industrial Training Institutes. Therefore, the petitioners submitted representation to regularise their services in time scale of pay. In pursuant to their representation, the second respondent had sent proposals to regularise their services.

3. The learned Senior Counsel appearing for the petitioners submitted that as per GO.Ms.No.6 Labour Welfare and Skill Development (P1) Department dated 07.01.2022, the permanent post in the Government Industrial Training Institutes which were not occupied alone had been deployed to the Industrial Training Institutes established under GO.Ms.No.238 dated 02.12.2003. Therefore, permanent approved post is now made available under the third respondent. As per the



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proposal sent by the second respondent to absorb the Instructor in a regular time time scale of pay by rendering the post occupied as a permanent post at Government Industrial Training Institute, Namakkal and it is still available for consideration before the first respondent.

4. On perusal of the counter filed by respondents 2 & 3 and on hearing the submissions made by the learned counsel appearing on either side, revealed that it is clear that the petitioners were appointed on consolidated salary, that too in temporary nature on the following conditions:

1.The appointment is purely temporary on contract basis and shall not confer any right for regular appointment.

2.No preferential claim to any other post or any other service in Government shall be entitled.

3.The person appointed under this contract is liable to be terminated at any time without prior notice and without assigning any reason. The order of



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termination cannot be challenged before any Court of Law.

4.The person appointed under this contract shall not indulge in any activity detrimental to the Government Interest.

5.This appointment is purely temporary only for a period of eleven months from the date of joining.

5. The proposals sent by the second respondent to the Government for consideration was also duly informed by the communication dated 28.01.2020 by the letter No.336 / P2/2018-5 that on the basis of the report submitted by the Staff, Rationalisation Committee placing on records of the financial constraints and also bearing in mind of the economy in expenditure reported that it was not feasible to create a new post with a time scale of pay to absorb the consolidated pay of Instructors. That apart, as per GO.Ms.No.238 Labour and Employment Department dated 02.12.2003, they were appointed on consolidated salary and their employment is purely temporary in nature. Similarly placed persons approached the Madurai Bench of this Court



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and this Court rejected the request made by the petitioners on the ground that a contract appointee cannot claim benefit of regularisation. Further, the petitioners are not falling within the one time arrangement granted by the Constitution Bench in the case of State of Karnataka Vs. Uma Devi reported in (2006) 4 SCC 1. Though in the year 2016, Junior Training Officer recruitment notification was published by the respondents, the petitioners did not apply to compete in the recruitment process. If the petitioners had participated in the direct recruitment process and succeeded in the exam, they would be considered in the regular time scale posts. Further, the petitioners were not appointed by the Government in the regular category. But the regular Junior Training Officers are appointed on state wide seniority and the Additional Director, Department of Employment and Training is the appointing authority. Therefore, there is no provision to regularise the services of the petitioners who had been appointed on contract basis. As such, all the writ petitions are devoid of merits and liable to be dismissed.



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6. Accordingly, all the writ petitions are dismissed.

Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

18.03.2024

Neutral citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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Labour, Welfare and Skill Development(C1) Department
2. The Director of Employment and Training,
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3. The Regional Joint Director,
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