



W.P.No.10599 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2024

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.10599 of 2024
and
W.M.P.No.11655 of 2024

1. V.Soupramaniane
2. A.Rajaram
3. S. Jayakumar
4. I.Kumar
5. R.Selvarangam
6. V.Manikandan
7. G.Selvaraj
8. R.Ramalingam
9. R.Shanmugam
- 10.S.Prabakar
- 11.R.Prabakaran
- 12.S.Kodandaraman
- 13.B.Narayanasamy
- 14.D.Murugan
- 15.D.Vijayalakshmi
- 16.B. Palanivel



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17.S.Sivaraj

18.N.Sengadirservan

19.S.Arjunan

20.Devesenpathi

21.S.Gunasekaran

...Petitioners

Vs

1. Union Territory of Puducherry
Represented by the Chief Secretary to Government,
Central Secretariat, Puducherry.

2. The Managing Director,
Puducherry Distilleries Limited,
(A Government of Puducherry undertaking)
Ariyapalayam, Villianur,
Puducherry – 605 110.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the second respondent's Memorandum dated 19.03.2024 in No.PDL/P&A/E4/MPW/2024 to quash the same and consequently direct the respondent to appoint the petitioners in the second respondent company in the existing vacancies as casual labourers and pass orders.

For Petitioner : Mr.S.P. Sudalaiyandi

For Respondent : Mr.A. Tamilvannan
Additional Government Pleader

ORDER



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This petition is filed seeking to issue a Writ of Certiorarified Mandamus after calling for the second respondent's Memorandum dated 19.03.2024 in No.PDL/P&A/E4/MPW/2024 to quash the same and consequently direct the respondent to appoint the petitioners in the second respondent company in the existing vacancies as casual labourers

2. The facts of the case is that the petitioners worked in the second respondent company as casual labourers from the year 2009 and also worked as permanent employees from 07.12.2015 to 17.08.2023. Whiles, a notification was issued by the second respondent to recruit workers for the post of multi purpose workers. After the selection process the second respondent issued appointment orders to the petitioners and 33 other persons on 07.12.2015. Challenging the said appointment order one S. Ravikumar filed W.P.No.40172 of 2015 and the same was allowed vide order dated 12.07.2023. Aggrieved over the same, W.A.No.2231 of 2023 was filed and this Court vide order dated 29.01.2024 dismissed the writ appeal and granted liberty to the petitioners to give representation to the authorities concerned. Pursuant to which the petitioners also give representation to the authorities who inturn has passed the impugned



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order, which has given rise to this petition.

3. The learned counsel for the petitioners submitted that the impugned proceedings dated 19.03.2024 passed by the second respondent is in total violation of the order passed by the division Bench of this Court in W.A.No.2231 of 2023. Hence, he impugned order is liable to be set aside. Hence, prays for interference by this Court.

4. The learned counsel for the respondents submitted that notification dated 17.08.2015 was published in Dinamani Tamil News paper Villupuram Edition, though the Villupuram Edition was circulated in Puducherry, it was not circulated in other 3 regions viz., Karaikal, Mahe and Yanam. He further submitted that the notification dated 28.10.2015 is only to accommodate the petitioners who were already working as Casual Labourers and they have filed a counter affidavit to that effect. Hence prays to dismiss this petition.

5. Heard both sides and perused the materials available on record.



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6. On a perusal of the counter affidavit filed by the respondent is is made clear that the notification published by the second respondent on 8.10.2015 is only to absorb the petitioners in the organisation and the relevant portion is extracted here under:

14. I respectfully submit that the second Respondent on considering the interim directions, filed three affidavits by stating as follows:

(i) The distilleries is running smoothly with the present employees and arrangement at present, there is no requirement of additional CLRs and are very much sufficient to meet out the demands. Earlier, when 53 MPWs were employed, the number of staff in comparison with the requirement of number of staff was excess and disproportionate. A batch of staff would work for one hour and then the next batch for one hour. The batches after completing their work for on hour would be idle until their next shift. Now, with the existing staff strength, the demands are met out and the same is also yielding financial savings to the company.

(ii) The moment they are appointed as MPW by direct recruitment, their status as CLR ceases to exist. In any case, the earlier engagement of CLR would not grant them any right either to seek regularization or to continue again as CLR as it will be against the law settled by the Hon'be Apex Court, this Hon'ble Court and the various guidelines issued by the Government of Puducherry.

(iii) The daily operation of the Puducherry Distilleries Limited is functioning with the existing employees, Supervisor-10, Senior Operator-13,



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Technician-16, Junior Operator-2

Multi-Purpose worker-5 and CLR-37. At present, there is no requirement for fresh appointment or additional employees. Any such engagement would result in excess engagement causing financial crisis.

7. On going through the affidavit filed by the second respondent, this Court dismissed the writ appeal. The sum and substance of the case is that the respondents have violated the directions given by this Court in W.A.No.2231 of 2023 dated 29.01.2024. To put a quietus to this issue it is made clear that absorption and regulations were not the subject matter before any forum and the Division Bench even though dismissed the W.A.No.2231/2023 has given liberty to the petitioners to make their representation to the authorities concerned and on receipt of the said representation, the authorities shall pass orders on merits. The petitioners has given representation and the same was received by the respondents pursuant to which they have passed the impugned order. Hence, there is violation on the part of the respondents as stated by the learned counsel for the petitioners. If the respondents has kept the representation pending, then it can be said that there was a violation.



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8. Considering the facts of the case it is made clear that the contentions of the petitioner is devoid of merits and the same cannot be accepted by this Court.

9. In view of the above facts it is made clear that there is no merits in the submissions made by the petitioners and this petition deserves to be dismissed. Accordingly this petition is dismissed. No order as to costs. Consequently the connected miscellaneous petition is closed. However, if any vacancy arise in future, the respondents are directed to consider the case of the petitioners on merits and in accordance with law.

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Index: Yes/No
Speaking order/Non-speaking order
smn

To.



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1. The Mission Director,
National Health Mission (Tamilnadu)
DMS Complex, Teynampet,
Chennai – 600 006.

2. The Director,
Public Health and Preventive Medicine,
DMS Complex, Teynampet,
Chennai – 600 006.

3. The President
District Health Society/District Collector,
Collector Office Complex,
Coimbatore,
Coimbatore District – 641 018.

V.BHAVANI SUBBAROYAN,J.

smn



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