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W.P.No.30078 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

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1. K. Karthigayan
2. V. Arikrishnan
3. K. Annadurai
4. Aroquiame Amalor Julien
5. V. Azhagu
6. E.Devi
7. C. Devanathan
8. R. Devanathan @ Ravi
9. D. Ezhumalai
10. M. Gunasundari
11. Jonnada S.Sreenivasa Rao
12. R. Kala



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13. R. Kanagasabai

14. C. Kannan

15. R. Kannan

16. R. Kumaragurubaran

17. R. Lalitha

18. G. Madhan

19. R. Murari

20. N. Muthukumaran

21. V. Nadaradjane

22. Palanimuthu

23.R. Pragash

24. K. Prasanthan

25. N. Pariyasamy

26. R. Punniakodi

27. L. Rajan

28. D. Rajendiran

29. A. Ramachandiran

30. T. Rajakumar

31. R. Sampath

32. A. Sampath



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33. C. Saravanan

34. S.Selvam

35. V. Selvanathan

36. D.Selvaraj

37. S.Senthil

38. S.Sheik Karim

39. G.Sivakumar

40. B.Sivasankaran

41. S.Sridarane

42. K. Srinivasan

43.D. Subramanian

44. N. Subramanian

45. K. Tamijarassane

46. V. Tillinayaguy

47. K. Vaithilingame

48. J. Vajoumouny

49. R. Vengadesh

50. A.Vinayagam

51. S. Vinayagamurthy



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52. P. Latchoumy

53. D.Ravindiran

... Petitioners

Vs.

1. The Secretary,
Legislative Assembly,
Secretariat, Pudukkottai.

2. The Special Secretary to Government,
Department of Personnel and Administrative
Reforms (Personnel Wing),
Chief Secretariat, Pudukkottai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari Mandamus, to call for the records of the first respondent with No.7779/LAS/Estt./E2/2014 dated 01.07.2014 and to quash the same and consequently to direct the respondents to regularise the services of the petitioners with effect from the date on which they were appointed on Daily Rated Basis with all other consequential benefits including arrears of wages.

For Petitioner : Mr. M. Gnanasekar,
petitioners 1,2,4,5,9,11, to 17,19,21
to 41, 44 to 46, 48 to 52

For Respondents : Mr.V. Ajayakumar,
Petitioners 3, 6 to 8, 10, 18, 20, 42,
43, 47 & 53



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: Mr. R. Syed Mustafa
Special Government Pleader
(Puducherry)

ORDER

(Order of the Court was made by *S.M.SUBRAMANIAM, J.*)

The writ petition, on hand, has been instituted challenging the order dated 01.07.2014 issued by the Secretary of the Legislative Assembly, Secretariat, Government of Puducherry.

2. The petitioners were engaged as casual labourers on Daily Rated basis in the Legislative Assembly, Secretariat, at Puducherry. Though these Casual Labourers were recruited through District Employment Exchange concerned, their initial recruitment were not in accordance with the Service Rules in force during the relevant point of time. The petitioners submitted application seeking regularisation and permanent absorption of their services in the sanctioned post in the Time Scale Pay. The respondents rejected the claim of the petitioners for regularisation and permanent absorption. Challenging the said order of rejection, the present writ petition came to be instituted.



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3. Mr.M.Gnanasekar, learned counsel for the petitioners would submit that during the pendency of the Writ Petition, several recommendations are made by different authorities to consider the case of the petitioners for regularisation. Those files are pending before the Government of Puducherry. Therefore, the Government has to take a final decision regarding the claim of the petitioners for regularisation and permanent absorption in the Time Scale of Pay in the sanctioned post.

4. Mr. R.Syed Mustafa, learned Special Government Pleader (Puducherry) appearing on behalf of the respondents would rely on the common order passed by the Division Bench of this Court in batch of writ petitions in W.P.No.12320 of 2018 etc ., dated 19.08.2024 , more specifically, filed by the very same petitioners in the present writ petition and in the said case, the respondents have produced the subsequent order of the Government of Puducherry dated 15.09.2017, wherein all these Daily Rated Casual Labourers were treated as Full Time Casual Labourers in the Department. They were treated as Full Time Casual Labourers in consonance with the Puducherry Casual Labourers(Engagement and regularisation) Scheme 2009.



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5. Pertinently, the said order was passed by the Government of Puducherry, subject to the out come of the present writ petition filed in WP 30078 of 2014. Therefore the said decision cannot be construed as a final decision of the Government since it was considered during the pendency of the present Writ Petition and by clearly stating that the said decision is subject to the outcome in WP No.30078 of 2014.

6. Admittedly, initial appointment of the petitioners were on Daily Rated basis and their appointments were not made in accordance with the Recruitment Rules in force. They were not engaged against sanctioned post in the Time Scale of Pay. Thus, their initial appointments were irregular and therefore, they cannot claim regularisation or permanent absorption as an absolute right.

7. Regularisation and permanent absorption are to be granted strictly in accordance with the Service Rules in force. All appointments to the sanctioned post in the Time Scale of Pay are to be made under the Constitutional Scheme of Appointments and by scrupulously following the Service Rules. Irregular, back door and illegal appointments would not provide right to secure permanent absorption. More so, these petitioners are aware of the fact that they were engaged as Daily Rated Employees and accepting the terms and conditions of



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Daily Rated Employment, they have joined and serving as such. While so, they cannot turn around and seek regularisation and permanent absorption as a matter of right in violation of the Service Rules in Force.

8. The Constitution Bench of the Hon'ble Supreme Court of India in the case of *State of Karnataka /vs/ Umadevi 2006 (4) SCC 1* settled the legal principles regarding the regularisation of the Daily Rated Employees. Irregular, illegal, back door appointments would not provide cause to seek regularisation and permanent absorption. Contract labourers, Daily Rated workers also cannot claim regularisation and permanent absorption as a matter of right.

9. Lakhs and lakhs of youth of our great nation are longing to secure public employment through open competitive process. Therefore, persons, who have engaged as Daily Rated Employees also can participate in the process of selection, if any notified by the employers. Contrarily, they cannot secure employment as Daily Rated Employee and thereafter, seek regularisation in the sanctioned post, in the Time Scale of Pay, which is impermissible under Law and the Legal position is settled by the Constitutional Bench of the Hon'ble Supreme Court of India.



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10. Any such regularisation on permanent absorption would result in infringement of the right of the eligible candidates, who are all aspiring to secure public employment through open competitive process.

11. The modus of entering into Government Services on Temporary, Ad hoc , Daily Rated, and Contract Services, after serving for some time seeking regularisation and permanent absorption, if permitted would result in infringement of the right of all other eligible, and meritorious candidates waiting and longing to secure public employment.

12. The Government of Puducherry had already committed many such irregularities, which were noticed by this High Court and several directions were issued by this High Court to follow the Constitutional Scheme of appointments and stop all irregular, illegal and back door appointments in public services. All such appointments are made at the instance of few influential people and on extraneous considerations. Therefore, the practice of appointing choice of candidates on temporary basis and thereafter, claiming regularisation or grant of regularisation is impermissible and Constitutional Courts cannot encourage such practice of the Government, which is opposed to public policy and would result in un-constitutionality. Equal opportunity enshrined under the



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Constitution in public employment is a valuable right of citizen, which is to be preserved and protected by the Constitutional Courts.

13. In the present case, admittedly, all the petitioners were engaged as Daily Rated employees. They were not initially appointed against sanctioned post in the Time Scale of Pay in accordance with the Service Rules in force. Therefore, their initial appointments were irregular and they cannot seek any regularisation or permanent absorption, which is running counter to the legal principles settled by the Constitutional Bench of the Hon'ble Supreme Court in the case of *Uma Devi* cited supra.

14. The Constitutional Bench has reiterated in unequivocal terms that any judgment running counter to the legal principles settled in *Uma Devi's* case have denuded to lose its status as precedent and therefore, those judgments cannot be relied on for the purpose of grant of regularisation and permanent absorption.

15. In view of the above principles, we do not find any infirmity in respect of the impugned order passed by the respondents in proceedings dated 01.07.2014 rejecting the claim of the petitioners for regularisation and



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permanent absorption. The subsequent proceedings cannot result in an illegality or unconstitutionality and it is for the Government to take all initiatives to ensure that the public appointments are made strictly in accordance with the Service Rules in force.

16. With these observations, writ petition stands dismissed. No costs.

[S.M.S., J.] [M.J.R., J.]

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Index: Yes/No

Speaking/Non-speaking order

mrp

To

1. The Secretary,
Legislative Assembly,
Secretariat, Pudukkottai.
2. The Special Secretary to Government,
Department of Personnel and Administrative
Reforms (Personnel Wing),
Chief Secretariat, Puducherry.



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M.JOTHIRAMAN, J.

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