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W.P.Nos.25446 and 25230 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

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**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and**

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.Nos.25446 and 25230 of 2022

and

W.M.P.Nos.24432, 24437, 24184 and 24187 of 2022

W.P.No.25446 of 2022

Tamil Nadu Judicial Employees Association (Erstwhile “Tamil Nadu
Judicial Ministerial Officers' Association) ... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Home (Courts) Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2. The Registrar General,
Madras High Court,
Chennai – 600 104.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent pertaining to Notification No. 186 to 209 dated 24.07.2022 for direct recruitment to the post of Driver in the subordinate Judicial Service of various Districts and quash the same and consequently direct the respondents to absorb the Office Assistants and other posts of Basic Service working in various districts, who are members of the petitioner's



Association, who are having qualification for the post of Driver, in the post of Driver and regularise their services in all aspects and direct the respondents to absorb the in-service and ousted temporary staffs/ members of the petitioner's association who are having qualification for the post of Driver, permanently in the posts of Driver and regularise their services in all aspects in the light of the petitioner's representation dated 18.08.2022 within a reasonable time frame to be fixed by this Hon'ble court.

W.P.No.25230 of 2022

Tamil Nadu Judicial Employees Association (Erstwhile "Tamil Nadu
Judicial Ministerial Officers' Association) ... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Home (Courts) Department,
Secretariat, Fort St. George,
Chennai – 600 009.

2. The Registrar General,
Madras High Court,
Chennai – 600 104.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent pertaining to Notification No. 154 to 185 dated 24.07.2022 for direct recruitment to the posts of (i) Examiner, (ii) Reader, (iii) Senior Bailiff (iv) Junior Bailiff and (v) Xerox operator in the subordinate judicial service of various districts and quash the same and consequently direct the 2nd respondent to absorb the in-service and ousted temporary staffs / members of the petitioners association working in the sanctioned posts, permanently in the posts of Examiner, Reader, Senior Bailiff, Junior Bailiff, Xerox operator and any other posts, in the Tamil Nadu Judicial Ministerial service according to their Educational Qualification and regularize their services in all aspects in the light of the petitioner representation dated



18.08.2022 within a reasonable time frame to be fixed by this Hon'ble court.

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For Petitioner : Mr.N.G.R.Prasad
for M/s.Row and Reddy
(in both W.Ps)

For R1 : Mrs.P.Raja Rajeswari,
Government Advocate
(in both W.Ps)

For R2 : Mr.B.Vijay (in both W.Ps)

COMMON ORDER

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

The recruitment Notification No.186 of 2022 dated 24.07.2022 is sought to be quashed in the present writ proceedings.

2. In the matter of regularization of the services of the temporary/ daily wages/ contractual employees and regarding back door appointments, the legal principles are settled by the Constitution Bench of the Hon'ble Supreme Court of India in the case *the State of Karnataka -vs- Umadevi* reported in **(2006) 4 SCC 1**. The Constitution Bench, in unequivocal terms, held that regularization of employees, who have not been appointed in



accordance with the Service Rules are impermissible. Regularization and permanent absorptions are to be made by scrupulously following the Service Rules in force.

3. In the context of the relief sought for regarding regularization of temporary staff, the preliminary objection has been raised regarding the maintainability of the Writ Petition. The writ petitioner is Tamil Nadu Judicial Employees' Association (Erstwhile Tamil Nadu Judicial Ministerial Officers Association) represented by the State President. Question arises as to whether the Tamil Nadu Judicial Employees' Association has *locus standi* to seek the relief of regularization of the services of the temporary employees, who are engaged in the Judicial Departments.

4. Pertinently, the writ petitioner's association has not even enclosed the list of members along with the writ proceedings. The learned counsel for the writ petitioner, Mr.N.G.R.Prasad would submit that the Association consists of about 25,000 members across the State of Tamil Nadu. The beneficiaries of the relief, as such sought for is also not made clear. Admittedly, few temporary employees had already been ousted by the



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administration. The notification contained age concession for in-service candidates and weightage marks were also provided. There is no impediment for the qualified candidates to participate in the process of selection. The counter filed by the Registrar General, High Court would reveal that the Registry, High Court in the Office Memorandum dated 02.03.2022 has called for the estimate of vacancies for the post of Computer Operator, Reader/Examiner, Senior Bailiff, Junior Bailiff, Process Server, Process Writer, Xerox Operator, Lift Operator, Driver and Record Clerk to be filled up by direct recruitment for the year ending 31.12.2022 from 32 Judicial Districts, **“after effecting promotions and accordingly, the vacancy particulars had been received.”**

5. Pursuant to the receipt of vacancy particulars from the Appointing Authorities/ Principal District Judges/ Unit Heads/ Chief Judicial Magistrate in the State of Tamil Nadu, two separate recruitment notifications had been issued by strictly adhering the prevalent Recruitment Rules, as well as the guidelines issued in this regard.

6. As far as the post of Drivers are concerned, 59 vacancies were



notified in 24 Judicial Districts. The learned counsel for the 2nd respondent, Mr.B.Vijay made a submission that the process of selection had already been completed and the selected candidates were appointed and consequently, joined in service.

7. Regarding the maintainability of the Writ Petition, we are of the considered opinion that an Association cannot represent the cause of these temporary employees, who were already ousted from service. Even in respect of in-service candidates, the relief of regularization, promotion or appointment by transfer of service is to be construed as individual grievances and therefore, an aggrieved person alone is entitled to approach the Court of law for redressal. The petitioner herein, i.e., Tamil Nadu Judicial Employees' Association cannot be construed as an aggrieved person for the purpose of granting relief, as such sought for in the present Writ Petition. The relief is to quash the recruitment notification and to issue direction to the respondents to regularize the services of the temporary employees by accomodating them in the vacancies, which all are notified for direct recruitment. Such a relief cannot be granted in the present Writ



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Petition. The Apex Court, time and again held that in service matters, aggrieved persons alone are entitled to file a Writ Petition. In the present case, the relief sought for is relating to individual grievances and cannot be construed as common in nature. That being so, we are not inclined to go into the merits of the matter, as the writ petitioner Association is not an aggrieved person and consequently, they have no *locus* to seek the relief of regularization, promotion or appointment by way of transfer of service of the temporary employees/ in-service employees.

8. Accordingly, the Writ Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

(S.M.S.,J.) (K.R.S.,J.)
11.03.2024

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Index : Yes
Speaking order

To

1. The Secretary to State of Tamil Nadu,
Home (Courts) Department,
Secretariat, Fort St. George,
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2. The Registrar General,
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