



WEB COPY



W.P.Nos.2140, 2143 and 2144 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2024

CORAM:

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

W.P.Nos.2140, 2143 and 2144 of 2022

W.P.No.2140 of 2022:-

B.Lakshmi

...Petitioner

-Vs-

1. The General Manager,
Canara Bank Circle Office,
No.563, P.B-1078,
1st Anna Salai,
Teynampet,
Chennai – 600 018.
2. The General Manager,
Canara Bank,
Personnel Wing,
Head Office,
112, J.C.Road, Bengaluru – 560002.
3. The Assistant General Manager,
Canara Bank Circle Office,
HRM Section,
No.563, P.B-1078,
1st Anna Salai,
Teynampet,
Chennai – 600 018.



W.P.Nos.2140, 2143 and 2144 of 2022

4. The Branch Manager,
Canara Bank,
Thalambur Branch,
½, Pazhanidamman Koil Street,
Thalambur,
Chengalpet, Kancheepuram,
603103.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents regularize the services of the petitioner.

(Prayer amended as per order dated 12.09.2023 made in W.M.P.No.26145 of 2023 in W.P.No.2140 of 2022)

W.P.No.2143 of 2022:-

P.Paranthaman

...Petitioner

-Vs-

1. The General Manager,
Canara Bank Circle Office,
No.563, P.B-1078,
1st Anna Salai,
Teynampet,
Chennai – 600 018.
2. The General Manager,
Canara Bank,
Personnel Wing,
Head Office,
112, J.C.Road, Bengaluru – 560002.



W.P.Nos.2140, 2143 and 2144 of 2022

3. The Assistant General Manager,
Canara Bank Circle Office,
HRM Section,
No.563, P.B-1078,
1st Anna Salai,
Teynampet,
Chennai – 600 018.

4. The Branch Manager,
Canara Bank,
Selaiyur Branch,
Agaram Main Road,
Indira Nagar Selaiyur,
Chennai 600 073.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents regularize the services of the petitioner.

(Prayer amended as per order dated 12.09.2023 made in W.M.P.No.26144 of 2023 in W.P.No.2143 of 2022)

W.P.No.2144 of 2022:-

G.Leelavathi

...Petitioner

-Vs-

1. The General Manager,
Canara Bank Circle Office,
No.563, P.B-1078,
1st Anna Salai,
Teynampet,
Chennai – 600 018.



W.P.Nos.2140, 2143 and 2144 of 2022

2. The General Manager,
Canara Bank,
Personnel Wing,
Head Office,
112, J.C.Road, Bengaluru – 560002.

3. The Assistant General Manager,
Canara Bank Circle Office,
HRM Section,
No.563, P.B-1078,
1st Anna Salai,
Teynampet,
Chennai – 600 018.

4. The Branch Manager,
Canara Bank,
New Perungaltur Branch,
No.15, Ganhi Street,
Srinivasa Nagar,
New Perungulathur – 600063.

...Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents regularize the services of the petitioner.

(Prayer amended as per order dated 12.09.2023 made in W.M.P.No.26147 of 2023 in W.P.No.2144 of 2022)

In all W.Ps

For Petitioners : Mr.S.Mahesh Kumar
For Respondents : Mr.Rajnish Pathiyil



W.P.Nos.2140, 2143 and 2144 of 2022

5. Though they were working from the year 2015, their respective posts were not regularized. Therefore, the petitioners submitted representation to regularize their services.

6. The learned counsel for the petitioner relied upon the Judgment of the Hon'ble Supreme Court of India in the case of ***Vinod Kumar and others VS Union of India and others*** in ***Civil Appeal Nos.22241-42 of 2016 dated 30.01.2024***, in which the Hon'ble Supreme Court of India held that in ***Uma Devi's case***, it was distinguished between “irregular” and “illegal” appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of regular appointments such as conduct of written examinations or interviews as in the present case.

7. He further submitted that the petitioners services as evolved over time, warrant a reclassification from temporary to regular status.



W.P.Nos.2140, 2143 and 2144 of 2022

The failure to recognize the substantive nature of their roles and their continuous service akin to permanent employees runs counter to the principles of equity, fairness and the intent behind employment regulations.

8. As per Schedule V of the Industrial Disputes Act, 1947, Rule 10 says that to employ workmen as “badlis”, casuals or temporaries and to continue them as such for years, with the object of depriving them of the status and privileges of permanent workmen. Therefore, the petitioners services must be regularized, since they were appointed in regular vacancies.

9. The respondents filed counter and also the submissions made by the learned counsel appearing for the respondents revealed that the erstwhile Syndicate Bank has been amalgamated into Canara Bank with effect from 01.04.2020 had a practice of empanelling temporary candidates in the sub-staff cadre (Attender/Sweeper) to entrust duties of PTS/Attender on temporary basis in the absence of the permanent sub-



W.P.Nos.2140, 2143 and 2144 of 2022

staff. The Circular dated 24.02.2006, the erstwhile Syndicate Bank had issued instructions pertaining to appointment of temporary employees in sub-staff (Attender/Sweeper) cadre on the panel. It had laid down guidelines regarding the formation of panels of candidates. Accordingly, there was no provision for absorption of such candidates into the service of the respondents Bank. As per the circular dated 01.04.2015 of the respondents, various branches/offices of the Bank were advised to strictly adhere to the guidelines issued by the erstwhile Syndicate Bank dated 24.02.2006 in connection with engagement/termination of services of temporary Attender/Sweeper.

10. All the petitioners got empaneled to be engaged as Temporary Attender/Temporary Sweepers in the panel forum for all districts. Therefore, the engagement is not permanent appointment in the service of the bank. Therefore, the petitioner is not entitled for regular appointment in the service of the bank.



W.P.Nos.2140, 2143 and 2144 of 2022

WEB COPY

11. A perusal of the appointment order of each of the petitioners revealed that they were appointed as Temporary Attenders/Temporary Sweepers by the erstwhile Syndicate Bank. The petitioners were never appointed permanently. That apart, in the erstwhile Syndicate Bank, the post of part time sweeper was converted to that of full time House Keeper cum Attender by the settlement dated 28.02.2020, thereby the persons so re-designated must perform the duties of both the PTS as well as the Attender within the working hours. That apart, the petitioners were never appointed to any sanctioned post after undergoing recruitment process. They were not appointed through any proper channel. They were appointed only through interview and that too in the unsanctioned post. The recruitment in the public sector organization is to be as per the recruitment norms by extending appointment offer to all eligible persons in a fair, just and equitable manner.

12. Therefore, in the case of *State of Karnataka Vs Umadevi* reported in **2006 4 SCC 1**, it was held that temporary or contractual basis employees do not have a right to be absorbed in service. Further, in the



W.P.Nos.2140, 2143 and 2144 of 2022

WEB COPY

matter of regularizing the daily wagers engaged temporarily without any sanctioned vacancy and without following constitutional scheme of Recruitment Rules are not entitled for regularization. The daily wagers who are engaged by the Government or the instrumentalities of Government cannot claim regular employment as a matter of right irrespective of the length of period they were engaged and without following the recruitment rules. However, they would not create any right of regularization.

13. It was further held in the case of ***State of Karnataka Vs Umadevi*** reported in ***2006 4 SCC 1*** as follows:-

“ There is no fundamental right in those who have been employed on daily wages or temporarily or on contractual basis, to claim that they have a right to be absorbed in service. As has been held by this Court, they cannot be said to be holders of a post, since, a regular appointment could be made only by making appointments consistent with the requirements of Articles 14 and 16 of the Constitution. The right to be treated equally with the other employees employed on daily wages, cannot be extended to a claim for equal treatment with those who were regularly employed. That would be treating unequals as equals. It cannot be also be relied on to claim a right to be absorbed in service even though they have never been selected in terms of the relevant recruitment rules.



W.P.Nos.2140, 2143 and 2144 of 2022

WEB COPY

The arguments based on Articles 14 and 16 of the Constitution are therefore overruled.”

14. Thus, it is clear that the petitioners though rendered long period of service, their appointments are temporary in nature that too they were never appointed to any sanctioned post. Therefore, the grounds raised by the learned counsel for the petitioners cannot be countenanced and the writ petitions are devoid of merits and are liable to be dismissed. Accordingly, these writ petitions are dismissed. No costs.

08.07.2024

Internet: Yes
Index : Yes/No
Neutral Citation: Yes/No
Speaking/Non Speaking order
mn



W.P.Nos.2140, 2143 and 2144 of 2022

To
WEB COPY

1. The General Manager,
Canara Bank Circle Office,
No.563, P.B-1078,
1st Anna Salai,
Teynampet,
Chennai – 600 018.
2. The General Manager,
Canara Bank,
Personnel Wing,
Head Office,
112, J.C.Road, Bengaluru – 560002.
3. The Assistant General Manager,
Canara Bank Circle Office,
HRM Section,
No.563, P.B-1078,
1st Anna Salai,
Teynampet,
Chennai – 600 018.
4. The Branch Manager,
Canara Bank,
Thalambur Branch,
½, Pazhanidamman Koil Street,
Thalambur,
Chengalpet, Kancheepuram,
603103.
5. The Branch Manager,
Canara Bank,
Selaiyur Branch,
Agaram Main Road,
Indira Nagar Selaiyur,
Chennai 600 073.



W.P.Nos.2140, 2143 and 2144 of 2022

WEB COPY

6.The Branch Manager,
Canara Bank,
New Perungaltur Branch,
No.15, Ganhi Street,
Srinivasa Nagar,
New Perungulathur – 600063.



WEB COPY



W.P.Nos.2140, 2143 and 2144 of 2022

G.K.ILANTHIRAIYAN. J.

mn

W.P.Nos.2140, 2143 and 2144 of 2022

08.07.2024