



W.P.(MD).Nos.1768 to 1797 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).Nos.1768 to 1797 of 2024

W.P(MD)No.1768 of 2024:

V.Gopal

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Secretary,
Higher Education Department,
Secretariat, Fort.St.George,
Chennai.

2. The Madurai Kamaraj University,
Rep.by its Registrar,
University Campus,
Madurai 625 021.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent herein to consider the petitioner's representation, dated 20.01.2024 and pass appropriate orders to regularize his service as in the post of Clerk / Assistant in one of the 177 available permanent vacancy in 2nd respondent University with effect from completion of ther petitioners's 10 years service without break



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i.e., from 08.08.2012 with all consequential monetary and service benefits, within a stipulated time as fixed by this Court.

For Petitioner : Mr.V.Meenakshi Sundaram

For R1 : Mr.N.Ramesh Arumugam
Government Advocate

For R2 : Mr.T.Sakthi Kumaran
Standing Counsel

COMMON ORDER

The present writ petitions have been seeking direction against the 2nd respondent herein to consider the petitioners' representations respectively and pass appropriate orders to regularize their service in the respective post in 2nd Respondent University in Class IV Category on completion of 10 years service without break with all consequential monetary and service benefits.

2. Heard the learned counsels on either side and perused the materials available on record.

3. The petitioners were appointed as casual labours on various dates. Later, the Appointment Committee of the University appointed the respective



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petitioner as Causal Labour on Consolidated Pay (CPCLR). The petitioners were assigned duty in the services of the University. The petitioners have been working for more than 10 years on consolidated pay with the fond hope that the University would place them in a regular scale of pay. The petitioners were initially appointed as Casual Labour and they are eligible for regularization under time scale of pay in anyone of the existing clerical vacancy in the University. For the sake of convenience, the details of the service rendered by the writ petitioners is tabulated as follows:

S.No.	Writ Number	Petition	Name of the writ petitioner	Date of entry into service	Date on completion of 10 years	Service period as on today
1.	W.P(MD)No.1768 of 2024		V.Gopal	08.08.2002	08.08.2012	21.5
2.	W.P(MD)No.1769 of 2024		N.Muthalagu	02.08.2008	02.08.2018	15.5
3.	W.P(MD)No.1770 of 2024		S.Abdul Sulthan	23.01.2009	23.01.2019	15.0
4.	W.P(MD)No.1771 of 2024		M.Balakrishnan	10.07.2006	10.07.2016	17.6
5.	W.P(MD)No.1772 of 2024		A.Ganesan	10.07.2006	10.07.2016	17.6
6.	W.P(MD)No.1773 of 2024		D.Sakthivel	10.01.2007	10.01.2017	17
7.	W.P(MD)No.1774 of 2024		B.Suganthi	16.08.2012	16.08.2022	11.5
8.	W.P(MD)No.1775 of 2024		J.Rajesh Kannan	11.02.2011	11.02.2021	13.0



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9.	W.P(MD)No.1776 of 2024	M.Sivaguru	01.05.2011	01.05.2021	12.7
10.	W.P(MD)No.1777 of 2024	C.Latha	25.05.2009	25.05.2019	14.6
11.	W.P(MD)No.1778 of 2024	C.Nagavalli	25.05.2009	25.05.2019	14.7
12.	W.P(MD)No.1779 of 2024	J.Kavithanjali	01.03.2009	01.03.2019	14.9
13.	W.P(MD)No.1780 of 2024	S.Ruby	30.04.2010	30.04.2020	13.8
14.	W.P(MD)No.1781 of 2024	R.Dhanasekarapandian	01.03.2009	01.03.2019	14.9
15.	W.P(MD)No.1782 of 2024	V.Alagumeena	03.08.2009	03.08.2019	14.4
16.	W.P(MD)No.1783 of 2024	G.Geetha	12.12.2006	12.12.2016	17.1
17.	W.P(MD)No.1784 of 2024	S.Sekar	13.10.2008	13.10.2018	15.3
18.	W.P(MD)No.1785 of 2024	B.Baskaran	13.10.2008	13.10.2018	15.3
19.	W.P(MD)No.1786 of 2024	C.Gopinath	25.05.2009	25.05.2019	14.7
20.	W.P(MD)No.1787 of 2024	C.Kalaiselvi	05.01.2009	05.01.2019	15.1
21.	W.P(MD)No.1788 of 2024	K.Ramya	05.01.2009	05.01.2019	15.1
22.	W.P(MD)No.1789 of 2024	S.H.Ahamed Hussain	05.01.2009	05.01.2019	15.1
23.	W.P(MD)No.1790 of 2024	B.Manimegalai	05.01.2009	05.01.2019	15.1
24.	W.P(MD)No.1791 of 2024	K.Pethu Muniyandi	05.01.2009	05.01.2019	15.1
25.	W.P(MD)No.1792 of 2024	R.Ramu	25.05.2009	25.05.2019	14.7



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26.	W.P(MD)No.1793 of 2024	P.Suriyaprabha	25.05.2009	25.05.2019	14.7
27.	W.P(MD)No.1794 of 2024	B.Vijayalakshmi	15.07.2009	15.07.2019	14.6
28.	W.P(MD)No.1795 of 2024	S.Vedapothakar	01.05.2011	01.05.2021	12.8
29.	W.P(MD)No.1796 of 2024	H.Chitra Devi	15.10.2008	15.10.2018	15.3
30.	W.P(MD)No.1797 of 2024	M.Saravanan	01.04.2013	01.04.2023	10.8

4. A similar matter came to be dealt with by this Court in W.P(MD)No. 12554 of 2022, dated 01.12.2022 and that was allowed and the order was confirmed by the Division Bench in W.A.(MD)No.981 of 2023 and thereafter, SLP was preferred by the University before the Hon'ble Apex Court and the same was dismissed.

5. For better appreciation of the facts, the order passed in W.P(MD)No. 12554 of 2022, dated 01.12.2022 is extracted hereunder:

“5. I carefully considered the rival contentions and went through the materials on record. Though the petitioner was appointed only as Casual Labourer in the year 2005, it was not a back door entry. The University had published notification calling for applications from eligible candidates seeking appointment as Casual Labourer on



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consolidated basis. The University issued call letter dated 13.10.2005 calling upon the petitioner to attend interview on 26.10.2005. The petitioner was subjected to selection process. Proper resolution was passed by the appointment committee and that is how the petitioner came to be appointed on 14.11.2005. The petitioner has been serving the University without any break for the last 17 years.

6. My attention is drawn to the resolution passed by the syndicate of the respondent University on 12.08.2005. The resolution reads that the consolidated pay Casual Labourers and Casual Labourers on daily wages be allowed regular time scale of pay if they completed 10 years of service. This resolution has not been rescinded till date. I can understand the objection of the University if it is claimed that the cadre strength will be exceeded. Admittedly, it is stated that regular vacancies were available when he completed 10 years and even as on date. It is well settled that relief of regularisation can be given only in favour of the person who is still in service. That apart, he has to bring his case within the extant norms. The petitioner is able to fulfil both the conditions.

7. The learned counsel appearing for the petitioner relies on order dated 29.04.2014 passed by the Hon'ble Division Bench in W.A(MD)Nos.351 of 2012 etc. The Hon'ble Division Bench had held as follows:

“18. If the posts sanctioned by the Finance Committee are to be filled up by the University on a regular basis, the University would have to go in for a fresh direct recruitment. As per the statutes of the University, such regular process of selection will be through a written examination followed by viva voce. The respondents in these cases, were actually sponsored through employment exchange. They were made to appear for written



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examination. Those who were short listed in the written examination were interviewed and the respondents were selected. Therefore, despite the fact that they were appointed temporarily on daily wages basis, the respondents herein have fulfilled the qualifications prescribed for the posts and they were selected by the very same method of recruitment prescribed for regular selection.

19. The reliance placed by the learned Senior Counsel for the University upon the decision of the Constitution Bench of the Supreme Court in Uma Devi, cannot be applied stricto sensu, to cases of this nature. It is for the simple reason that Courts will have to distinguish between the appointments made through back door methods and appointments made by following the rigorous process of selection. The principles that would apply to back door appointments cannot be simply transported to the cases where a process of selection is strictly followed.”

This order was followed by another Hon'ble Division Bench to which I was a party (order dated 10.08.2017 in W.A(MD)Nos.919 and 920 of 2016).

8.The University which is the employer is receiving funds from the Government. The Government is not a necessary party to the present proceedings. I hold that the writ petitioners cannot be non-suited merely because the Government has not been impleaded. All the relevant norms are fulfilled. I direct the respondent University to regularise the services of the petitioner on completion of 10 years of service as casual labour. However, taking note of the contention advanced by the learned Standing Counsel for the respondent that the University is facing financial crunch, the petitioner will be eligible for



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monetary benefits only from the date of the impugned order. The order impugned in this writ petition is set aside.

9.This writ petition is allowed. No costs.”

6. The case on hand is absolutely similar and there is no place for taking a different footing. In view of the same, by adopting the order passed by this Court in W.P(MD)No.12554 of 2022, I hold that the writ petitioners cannot be non-suited and the respondents are directed to regularise the service of the petitioners in terms of the order passed in the aforesaid writ petition, within a period of eight (8) weeks from the date of receipt of copy of this order.

7. Accordingly, this writ petitions stand disposed of. There shall be no order as to costs.

11.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes

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- To
- 1.The Secretary,
Higher Education (K2) Department,
Secretariat, Fort St.George,
Chennai.
 - 2.The Registrar,
The Madurai Kamaraj University,
University Campus,
Madurai-625 021.



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L.VICTORIA GOWRI, J.

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