



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2025

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.13242 & 13243 of 2015
and M.P.No.1 of 2015

W.P.No.13242 of 2015

Dr.P.VPrabhakaran

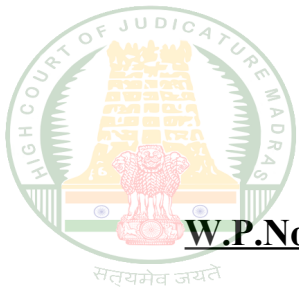
... Petitioner

Vs.

1. The Union of India,
rep. by its Chief Secretary,
Government of Puducherry,
Chief Secretariat, Puducherry – 605 001.
2. The Secretary (Arts & Culture),
Government of Puducherry,
Chief Secretariat, Puducherry – 605 001.
3. The Member Secretary,
Bharathiar Palkalaikoodam,
Cuddalore Main Road,
Ariyankuppam, Puducherry – 605 007.

... 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 relating to the proceedings of the third respondent in No.E27/BPK/2014/81 dated 17.06.2014 and quash the same and consequently direct the second respondent to regularize the services of the petitioner in the post of Assistant Professor, with effect from his initial date of appointment 19.08.1999 with all consequential benefits.



W.P.No.13243 of 2015

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In Both Writ Petitions

For Petitioner : Mr.L.Chandrakumar
for Mr.Stalin Abhimanyu

For R1 & R2 : Mr.R.Syed Mustafa



For R3

: Mr.T.M.Naveen

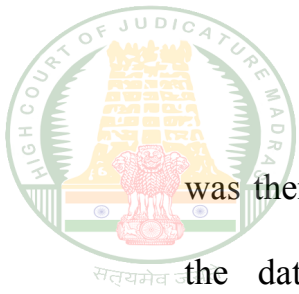
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COMMON ORDER

These two writ petitions have been filed aggrieved by the identical impugned orders passed by the third respondent, rejecting the claim of the petitioners for regularization of their services in the post of 'Lecturer (Sculpture)/ Assistant Professor' from the date of their initial engagement on hourly basis.

2. The brief facts that are relevant for disposal of these two writ petitions are as under:-

2.1. Both the petitioners herein have responded to the notification issued by the Respondent No.3, proposing to appoint Lecturers in the Department of Fine Arts on hourly basis, and accordingly participated in the selection processes. Pursuant to the same, the petitioners were appointed as 'Lecturer in Sculpture' and 'Instructor in Sculpture' on hourly basis with effect from 19.08.1999 and 15.10.2001 in the Department of Fine Arts for the academic years 1999-2000 and 2001-2002. Thereafter, the services of the petitioners were discontinued at the end of the academic year and re-engaged during the next academic year and thus, they continued till the year 2006. From 21.09.2006 onwards, the petitioners were placed on consolidated pay at the rate of Rs.8,000/- per month purely on a temporary basis. It



was thereafter, the petitioners made a claim for regularization of their services from the date of their initial appointment and approached this court by filing W.P.No.19494 of 2011.

2.2. During the pendency of the said writ petition, the services of the petitioners were regularized by the respondents with effect from 01.10.2012 and 01.08.2013 in the posts of 'Assistant Professor (Theory of Arts)' and 'Assistant Professor (Sculpture)' in the Fine Arts Department of BPK. In view of the same, W.P.No.19494 of 2011 was disposed of by this court, as the issue with regard to the retrospective regularization of the petitioners from the date of their initial engagement on hourly basis was stated to be under consideration before the respondents. It was thereafter, the said claim of the petitioners was negatived by the Respondent No.3 by passing the respective impugned orders, which are impugned in the present writ petitions.

3. From the perusal of the impugned orders, it is noticed that the request of the petitioners for regularization from a retrospective date was negatived on the ground that there was no post available during the period from 2005 to 2010, and their services were continued only on consolidated basis from 2005 to 2012. Yet another reason assigned in the impugned orders is that there was a 'break' in the service for about 2-3 months between every academic year and therefore, their service is not continuous in nature. As against the reasoning assigned in the impugned order stating



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that there is no post available for regularizing the services of the petitioners with retrospective effect, there is no material placed before this court to say that the respective posts were available and the petitioners have worked against the sanctioned posts. In the absence of any material to show that there were sanctioned posts available for regularizing the services of the petitioners, and that the petitioners worked against such sanctioned posts, the question of regularizing the services of the petitioners with retrospective effect in a non-existing post does not arise. In spite of the specific stand taken by the respondents in the very impugned orders, there is not even an attempt made in the affidavit filed in support of the writ petitions to say that any sanctioned post available for the respective petitioners.

4. Be that as it may, as seen from the affidavit filed in support of the writ petitions, while the petitioners were working as Lecturers on consolidated basis, they were again subjected to a selection process wherein interviews were conducted and accordingly, the petitioners herein were selected and appointed as 'Assistant Professors' during the year 2011. If that be the case, the initial appointment of the petitioners on hourly basis cannot be said to be a regular selection process. Further, the regularization of the services of the petitioners in the post of 'Assistant Professor/ Lecturer' retrospectively also cannot be claimed as a matter of right, as every post in the public employment is required to be filled up by affording opportunity to all



eligible candidates in terms of Articles 14 and 16 of the Constitution of India.

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5. But in the instant case, inspite of the petitioners being extended the benefit of regularization of their services, they are making a claim for retrospective regularization without there being any sanctioned post during the relevant period. The petitioners have also made a claim for retrospective regularization on the ground that the similarly situated persons namely Mr.P.V.Bose and M/s.L.Annapoorna were granted such benefit.

6. As seen from the counter-affidavit, the respondents have taken a specific stand that the benefit of regularization granted in favour of the abovesaid two persons itself is a mistake and erroneously they have granted such benefit. It is also not the case of the petitioners that they can claim retrospective regularization as a matter of right. If the petitioners cannot claim such a benefit as a matter of right, then the same also cannot be allowed on the ground that similarly situated persons like the petitioners were extended such benefit, though they were not entitled for the same.

7. But, rightly or wrongly, such benefit was extended to the above said two persons by the respondents themselves. In view of the specific stand taken by the respondents that such benefit was erroneously extended to the above said two



W.P.Nos.13242 & 132

persons, this court cannot direct the respondents to extend a similar benefit to the petitioners as negative equality cannot be extended by this court under Article 226 of the Constitution of India on the ground of violation of Articles 14 and 16 of the Constitution of India.

8. In the light of the above, this court does not see any error or irregularity in the impugned orders passed by the third respondent and accordingly, both the writ petitions are dismissed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

25.06.2025

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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W.P.Nos.13242 & 13243



MUMMINENI SUDHEER KUMAR, J.

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W.P.Nos.13242 & 1324



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