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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2025

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THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.6829 of 2025

P.Mariappan

.. Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Secretary,
Higher Education Department,
Fort St. George, Chennai – 600 009.

2.The Commissioner of Technical Education,
Directorate of Technical Education,
Guindy, Chennai – 600 025.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the representation dated 03.01.2025 seeking inclusion of 50% of Casual Labourer / NMR services by applying Rule 11(4) of the Tamil Nadu Pension Rules and to extend all pension and other pensionary benefits forthwith.

For Petitioner .. Mr.L.Chandrakumar

For R1 & R2 .. Mr.C.Jayaprakash, Govt. Advocate

**ORDER**

WEB COPY This Writ Petition has been filed in the nature of a Mandamus seeking a direction to the respondents to consider the representation dated 03.01.2025 given by the petitioner, by which representation, the petitioner sought inclusion of 50% of his services rendered as a Casual Labourer / NMR by applying Rule 11(4) of the Tamil Nadu Pension Rules. The petitioner claims that necessary pension and other pensionary benefits be granted to him.

2.In the affidavit filed in support of the writ petition, it had been contended that the petitioner had been appointed on 11.04.1991 on daily wages / NMR as Sanitary Worker. Since regularization was not effected, W.P.No.6463 of 2005 had been filed and a direction was given to examine the representation. The Government then passed G.O.Ms.No.113, Higher Education (C2) Department on 30.03.2006, but the petitioner and others were not brought under the purview of the Government Order. The others who had not been brought filed W.P.No.24241 of 2017 and a direction was given by a learned Single Judge on 08.09.2017. The order of the Court was also implemented and G.O.Ms.No.262, Higher Education (C2) Department dated 26.10.2018 was introduced by the Government. But again the



petitioner was not included. It is under those circumstances that the petitioner had given a representation.

3.A direction is given to the respondents to examine the period from which the petitioner had been working as Causal Labourer / NMR and also examine G.O.Ms.No.113 and G.O.Ms.No.262 dated 30.03.2006 and 26.10.2018 respectively and pass appropriate orders on the representation. In this connection, the respondents may also keep in mind the judgment of the Hon'ble Supreme Court reported in ***Jaggo V. Union of India and Others reported in 2024 SCC OnLine SC 3826***, wherein, it had been held as follows:

25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- Misuse of “Temporary” Labels: Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as “temporary” or*



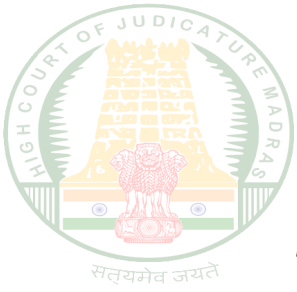
“contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.

- *Arbitrary Termination: Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.*

- *Lack of Career Progression: Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.*

- *Using Outsourcing as a Shield: Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.*

- *Denial of Basic Rights and Benefits: Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security*



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subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.

26. While the judgment in Uma Devi (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between “illegal” and “irregular” appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.



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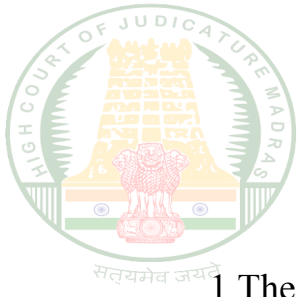
27. *In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.*

4. Necessary orders may be passed within a period of three months from the date of receipt of a copy of this order. Accordingly, this Writ Petition stands disposed of. No costs.

09.04.2025

Index: Yes/No
Internet: Yes/No
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To



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Higher Education Department,
Fort St. George, Chennai – 600 009.

2.The Commissioner of Technical Education,
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C.V.KARTHIKEYAN,J.

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