



W.P.No.5486 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 24.03.2025

CORAM :

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.5486 of 2024

Arumugam,
Son of Nagaiyah,
No.35, Mariyamman Koil Street,
Kaspa,
Vellore District

... Petitioner

vs.

1. Government of Tamil Nadu,
Represented by its Secretary,
Public Department,
Fort St. George, Chennai -600 009.

2.The Joint Director,
Directorate of Ex.Servicemen's Welfare,
No.22, Raja Muthaiya Salai,
Chennai - 600 003.

3.The Assistant Director,
O/o. The Deputy Director of Ex-Servicemen Welfare,
Bharathiyar Salai,
Vellore-632 001.

... Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, to Writ of Certiorarified Mandamus, to call for the entire records which culminated in passing the orders in (i) Government Letter No.32648/Mopavi/2020-2 dated 25.03.2021 on the file of first respondent (ii) proceedings bearing Na.Ka.No.6781



W.P.No.5486 of 2024

/2022/Nir.1 dated 27.01.2023 on the file of second respondent and (ii) proceedings bearing Na.ka.No.6781/2022/Nir.1 dated 07.03.2023 on the file of the second respondent, set aside the same and consequently direct the respondents to regularise the service of the petitioner in the cadre of Sweeper/Scavenger in the third respondent organisation atleast on completion of ten years of service as per G.O.Ms.No.22, Personnel an Administrative Reforms Department dated 28.02.2006 as well as G.O.Ms.No.131, P and AR Department dated 28.11.2020.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.V.Nanmaran.
Additional Government Pleader,

ORDER

The writ petition has been filed in the nature of Certiorarified Mandamus seeking records relating to orders dated 25.03.2021 on the file of the 1st respondent; 27.01.2023 on the file of the 2nd respondent and 07.03.2023 on the file of the 2nd respondent and set aside all the aforementioned orders and direct the respondents to regularise service of the petitioner in the cadre of Sweeper/Scavengers in the 3rd respondent organisation on completion of 10 years of service as per the G.O.Ms.No.22, Personal and Administrative Reforms Department dated 28.02.2006 and G.O.Ms.No.131, Personal and Administrative



W.P.No.5486 of 2024

Reforms Department dated 28.11.2020.

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2. In the affidavit filed in support of the writ petition, it had been contended that the petitioner had joined as a part time Sweeper in the Office of the 3rd respondent on 19.06.1997 after his name was sponsored by the District Employment Office, Vellore. He had been discharging his duties continuously on and from that date. In the year 2008, the petitioner had given a representation seeking regularisation of service. However, by proceedings dated 22.11.2012 of the 3rd respondent, the services of the petitioner was regularised in the Special Time Scale of Pay with effect from 16.10.2012 and not in regular cadre post.

3. The petitioner earlier had filed W.P.No.17035 of 2018 seeking a Mandamus to regularise his services. That was dismissed by the Learned Single Judge of this Court by an order dated 05.03.2019 placing reliance on the judgment of the Hon'ble Supreme Court reported in [(2006) 4 SCC 1], *Secretary, State of Karnataka vs. Uma Devi*. Thereafter, the petitioner had been giving further representations seeking regularisation. In the impugned order, once again citing the aforementioned judgment of the Hon'ble Supreme Court, the request of the



W.P.No.5486 of 2024

petitioner had been rejected.

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4. Counter affidavit had been filed on behalf of the respondents that the petitioner has joined the post of a Part Time Sweeper on Temporary basis on 19.06.1997 and had not completed 10 years of service as on 01.01.2006. It had been stated that the Government Orders in G.O.Ms.No.22, Personal and Administrative Reforms Department 28.02.2006, G.O.Ms.No.131, Personal and Administrative Reforms (F) Department dated 28.11.2020 and G.O.Ms.No.131, Personal and Administrative Reforms (F) Department date 28.11.2020 all provided for regularisation of employees, who had completed 10 years of service as on 01.01.2006. The petitioner had been appointed even according to him on 19.06.1997 as on 01.01.2006, had completed only 8 years 6 months and 11 days of service. Thus, it had been stated that the petitioner request for regularisation cannot be granted.

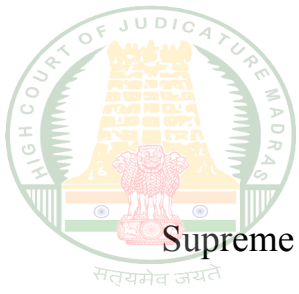
5. Heard the Learned Counsel for the petitioner and the Learned Additional Government Pleader for the respondents.



W.P.No.5486 of 2024

6. The petitioner had joined as Part Time Sweeper in the Office of the 3rd respondent on and from 19.06.1997. He was sponsored by the District Employment Exchange, Vellore. It is therefore seen that the initial appointment of the petitioner was not irregular but he was sponsored through Employment Exchange which was the procedure to be followed for appointment of part time Class IV workers. The petitioner had been discharging his duties on and from 19.06.1997. He had been issuing representations seeking regularisation. In the year 2008, the petitioner had given a representation which was rejected. He also filed W.P.No.17035 of 2018 but however that was dismissed by an order dated 05.03.2019, by a Learned Single Judge of this Court, placed reliance on the ratio laid down in the judgment report in **(2006) 4 SCC 1, Secretary, State of Karnataka -vs- Uma Devi**. The further representation of the petitioner was not considered by the respondents.

7. The judgment referred by the Learned Single Judge in W.P.No.17035 of 2018, filed by the petitioner herein was taken up for further consideration by the Hon'ble Supreme Court in the judgment reported in **2024 0 INSC 1034 (Neutral Citation), Jaggo vs. Union of India and others**. The Hon'ble



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Supreme Court had examined instances where the respondents took shelter under the judgment of *Secretary, State of Karnataka vs. Uma Devi* referred *supra* reported in *(2006) 4 SCC 1*. The Hon'ble Supreme Court had taken into consideration the plight of temporary workers who had been exploited day after day by the respondents. The Hon'ble Supreme Court has 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*



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W.P.No.5486 of 2024

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

26. While the judgment in Secretary, State of Karnataka vs. Uma Devi, (2006) 4 SCC 1 sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its



WEB COPY



W.P.No.5486 of 2024

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 Secretary, State of Karnataka vs. Uma Devi, [(2006) 4 SCC 1] 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.

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



WEB COPY



W.P.No.5486 of 2024

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.

8. The observations of the Hon'ble Supreme Court had been followed in yet another judgment of the Hon'ble Supreme Court in *Civil Appeal No.8157 of 2014, Shripal and another vs. Nagar Nigam, Ghaziabad*, wherein, again the very same principle had been upheld. Thus, it is evident that if the initial entry into service was not irregular, then, respondents cannot exploit workers who had been appointed on daily wages continuously and for ever and even without regularising their service. At some point of time, the services will have to be regularised, particularly after 10 years of service.

9. Therefore, the reasoning given by the respondents are set aside. The



W.P.No.5486 of 2024

matter is remitted back to the 1st respondent for fresh consideration of the entire

issue. The 1st respondent may keep in mind the observations of the Hon'ble

Supreme Court that Government Departments must provide fair and stable employment. This is all the more important since the Government is a Welfare State and cannot squeeze the workers exploiting their services.

10. The writ petition stands allowed. The impugned orders are set aside. A direction is given to the 1st respondent to re-examine the entire issue and pass order afresh in the light of the Hon'ble Supreme Court judgment in ***Jaggo vs. Union of India and others*** reported in ***2024 INSC 1030*** (*Neutral citation*) referred supra. The entire exercise should be completed within a period of six weeks from the date of receipt of copy of this order. There shall be no order as to costs.

24.03.2025

Neutral Citation : Yes/No.
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To,

Page 10 of 12



W.P.No.5486 of 2024

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4. The Government Pleader, High Court, Madras.



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W.P.No.5486 of 2024

C.V.KARTHIKEYAN, J.

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W.P.No.5486 of 2024

24.03.2025