



W.P.No.17600 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	18.06.2025
Pronounced on	07.07.2025

CORAM

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

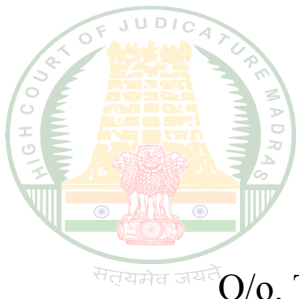
W.P.No.17600 of 2025

P.Manirathinam

... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Agricultural Production Commissioner
and Secretary to Government,
Agriculture and Farmers Welfare Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
2. The Director of Agriculture,
Department of Agriculture,
Chepauk,
Chennai – 600 005.
3. The Joint Director of Agriculture,
Joint Director of Agriculture Office,
Dharmapuri,
Dharmapuri District.
4. The Assistant Director of Agriculture,



W.P.No.17600 of 2025

WEB COPY

O/o. The Assistant Director of Agriculture,
Dharmapuri,
Dharmapuri District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the proceedings of the second respondent in Letter No.AVoPa1/102013/2023 dated 26.02.2025 and quash the same as illegal, incompetent and ultravires and consequently direct the respondents to regularise the petitioner's service from the date of his initial appointment i.e. 22.08.2014 as Driver and to pay all monetary and other service benefits.

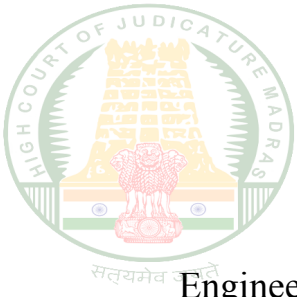
For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.R.U.Dinesh Raj Kumar,
Additional Government Pleader

ORDER

The instant writ petition has been filed challenging the impugned order dated 26.02.2025 passed by the second respondent.

2. The brief facts which give rise to the instant writ petition are that a Jeep was allotted to the fourth respondent's office vide G.O. Ms. No. 215 (VeNi3) Department dated 30.10.2013. To man the Jeep, the Executive



W.P.No.17600 of 2025

WEB COPY

Engineer, Dharmapuri appointed the petitioner on 18.08.2014 as a temporary driver on a contractual basis with a consolidated pay of Rs. 9,000/- per month. In pursuance thereof, the petitioner joined the service on 22.08.2014 and completed ten years of service on 22.08.2024. After that, he submitted a representation for regularization, which was forwarded by the third respondent to the second respondent. However, without considering the petitioner's eligibility, the same was rejected through the impugned order dated 26.02.2025. Hence, the present writ petition.

3. Heard the learned counsel for both sides and perused the materials available on record.

4. The learned counsel for the petitioner would contend that by virtue of G.O. Ms. No. 22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, those who have completed ten years of continuous service are eligible to be regularized. The above Government Order was explained in W.P. (MD) No. 11106 of 2013, wherein it was clarified that as per G.O. Ms. No. 22, Personnel and Administrative Reforms (F) Department, dated 28.02.2006, wherever there is temporary employment, on completion of



W.P.No.17600 of 2025

WEB COPY

continuous service of ten years, they are entitled to be regularized from the date of initial employment. It is the further submission of the learned counsel for the petitioner that this was confirmed by the Division Bench of this Court in W.A. No. 686 of 2014, vide order dated 12.07.2017. Following this, this Court, in W.P. No. 22740 of 2010, passed an order against the Forest Department, and based on the order of this Court, the Government has regularized the drivers of the Forest Department, who have completed ten years of service. Hence, the petitioner, being a driver appointed on a sanctioned post on contractual employment, and he being similarly situated person, seeking regularization on par with the Forest Department drivers on completion of his ten years of service.

5. Per contra, the learned Additional Government Pleader appearing for the respondents would strongly object to the said contention, and would contend that the petitioner was appointed temporarily on a contractual basis, and his appointment order dated 24.06.2014 categorically stipulates that he should not seek regularization. Apart from that, he has also given an undertaking not to claim regularization. He would also invite the attention of this Court to the judgement in W.A. No. 558 of 2021, dated 21.06.2024,



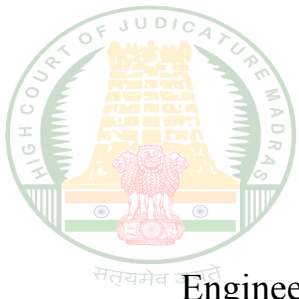
W.P.No.17600 of 2025

WEB COPY

wherein the Division Bench of this Court, after elaborately discussing the Constitution Bench judgement in the case of State of **Karnataka vs. Uma Devi**, reported in **2006 (4) SCC 1**, and other Constitution Bench judgements, ultimately found that regularization cannot be granted in violation of the Service Rules.

6. I have given my anxious consideration to the submissions made on either side.

7. The main contention put forth by the learned counsel for the petitioner is that he was appointed on a contractual basis. The learned counsel for the petitioner would invite the attention of this Court to the fact that the Government, vide G.O. Ms. No. 215 (VeNi3) Department dated 30.10.2013, sanctioned a Jeep along with a contractual basis driver. In pursuance thereof, the Executive Engineer, on receiving nominations from the Employment Exchange, Dharmapuri, sent interview letter to the petitioner directing him to appear for an interview on 09.07.2014, like other prospective candidates. After the recruitment process, three drivers were provisionally selected for appointment on a contractual basis, vide proceedings of the Executive

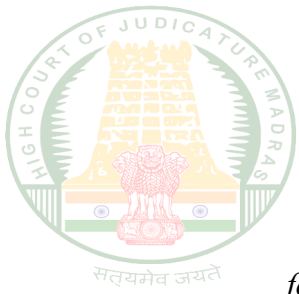


W.P.No.17600 of 2025

Engineer dated 18.08.2014, for the office of the Assistant Director, Agriculture Department, at Pappireddypatti, Dharmapuri, and Palacode, and the petitioner was posted at Dharmapuri. Ever since the date of appointment, he has been serving there without any demur.

8. At this juncture, the learned Additional Government Pleader would invite the attention of this Court to the conditions imposed upon the appointment letter as well as the undertaking given by the petitioner. No doubt, on perusal of the said appointment letter, it was made clear that the petitioner's appointment is a contractual one and he cannot claim any right to a Government job. As rightly contended by the learned Additional Government Pleader, in W.A. No. 558 of 2021, the Division Bench of this Court, after elaborately discussing various judgements in respect of public appointments, viz., ***Uma Devi's case*** cited supra and the case of ***Secretary to Government, School Education Department, Chennai vs. R. Govindasamy & Ors.***, reported in ***(2014) 4 SCC 769***, has ultimately observed in paragraph 31 as follows:-

“31. The crux of the issue and the constitutionality involved in the matter of appointment, regularization and permanent absorption are that, all appointments are to be made under the Constitutional scheme and by



W.P.No.17600 of 2025

WEB COPY

following the due process. Equal opportunity in public employment is the constitutional mandate. Back door appointments cannot be regularized infringing the fundamental rights of the candidates aspiring to secure public employment through open competitive process. Daily wage, temporary and contractual appointments are made without following the due process and the Recruitment Rules applicable to the posts. Such appointments are mostly not made against the sanctioned posts. Selections are done either at the choice of the Authorities or based on the recommendations of VIP's and VVIP's. Such appointments, if end with an order of regularization and permanent absorption, this Court has no hesitation in arriving at a conclusion that the fundamental rights of lakhs and lakhs of youth of our great nation is infringed and we are dishonoring the constitutional scheme of appointments. Therefore, any appointments made in violation of the service rules cannot end with an order of regularization and permanent absorption. However, such candidates may be granted liberty to participate in the recruitment process for securing employment on merits and through rule of reservations as per the Service Rules in force."

(emphasis supplied)

9. The ultimate finding of this Court is that if there is any appointment made without following the due process and the Recruitment Rules, and if such appointees considered for regularization, it would offend Articles 14 and 16 of the Constitution of India, as the lakhs and lakhs of youth of our great nation are longing for public employment.



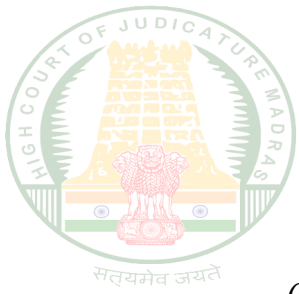
W.P.No.17600 of 2025

WEB COPY

10. But in the case in hand, the Government has sanctioned Jeeps in the fourth respondent's office, and since the vehicle has been sanctioned, a driver is essential to man the vehicle. Hence, the Executive Engineer received nominations through the Employment Exchange and conducted an interview for the prospective candidates along with the petitioner, ultimately including this petitioner there were two three persons selected.

11. As rightly contended by the learned counsel for the petitioner, the learned Single Judge of this Court, in W.P. No. 23823 of 2023, vide order dated 19.07.2024, after referring to G.O. Ms. No. 74, Personnel and Administrative Reforms (F) Department, dated 27.06.2013, and G.O. Ms. No. 22, Personnel and Administrative Reform (F) Department, dated 28.02.2006, following the judgement of the Larger Bench of this Court in ***M.Sivappa Vs. The State of Tamil Nadu*** (W.P.No.23823 of 2023 dated 26.02.2024), quashed the rejection order and directed the regularization of the post of driver who had completed ten years of service. For ready reference, the judgement of the Full Bench of this Court in ***M.Sivappa's case*** cited supra, which reads as follows:

“36. Having considered the entire literature that is available in the form of various pronouncements of this court,



W.P.No.17600 of 2025

WEB COPY

as well as the Hon'ble Supreme Court, we find it difficult to accept the judgment of the Division Bench in State of Tamil Nadu. by its Secretary, Public Works Department. and another vs. S. John Charles and others, as one laying down the law to the effect that the Government is free to appoint persons either in parttime or on a full-time temporary basis to permanent posts and oust them out at it whims and fancies and we conclude that such unbridled exercise of indiscretions by the State Government would amount to exploitation

37. We are of the considered opinion that wherever the posts are permanent in nature and they come within 86 categories of posts which form the Tamil Nadu Basic Service, temporary or part-time employment should be avoided and those persons, who have been appointed to such posts and who have completed 10 years of service as on 28.02.2006 would be entitled to regularisation dehors the nomenclature that is given to the appointment.

38. In fine, we hold

(a) If it shown that the appointment is made to anyone of the 86 categories of posts enumerated in the Tamil Nadu Basic Service immaterial of the fact that whether such appointment is part-time or full- time, the employee would be entitled to the benefit of regularisation dehors G.O.Ms.No.74 dated 27.06.2013.

(b) If it is shown that the nature of employment is temporary and the requirement will cease to exist after a



W.P.No.17600 of 2025

WEB COPY

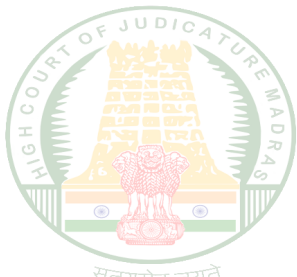
particular time, like those appointments that are made under various welfare schemes, it will then be open to the Government to engage temporary employees or parttime employees.

39. We conclude that the judgments in State of Tamil Nadu. by its Secretary, Public Works Department, and another vs. S. John Charles and others, and State of Tamil Nadu rep by its Secretary to Government, Rural Development and Panchayat Raj Department and others vs K.Rajakrishnan, cannot be taken as laying down an inflexible rule of law that any part-time or temporary employee who has completed 10 years of service on 28.02.2006 will not be entitled to regularisation. The benefit of regularisation will depend on the nature of the job and the fact that whether the post falls within any one of the 86 categories mentioned in the Special Rules for Tamil Nadu Basic Service.

40. Having answered the reference as above, we direct the Registry to list the Writ Petition before the learned Single Judge as per the roster for disposal in accordance with the opinion expressed above.”

12. The point to be considered, so as to apply the above ratio is, whether such posts are permanent in nature. Taking into consideration the continuous functioning of the petitioner in the fourth respondent's office would demonstrate that the post is permanently required as permanent in

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WEB COPY



W.P.No.17600 of 2025

13. At this juncture, this Court deems it appropriate to refer to the recent judgement of the Hon'ble Supreme Court of India in the case of **Jaggo vs. Union of India and others**, reported in **2024 SCC OnLine SC 3826**, wherein the Hon'ble Supreme Court of India considered the issue of long, and uninterrupted service spanning well over a decade. After considering the Government's objections on the grounds of the nature of engagement, absence of a sanctioned post, non-compliance with **Uma Devi's case**, absence of educational qualification, and the contention that regularization is not a fundamental right, the Hon'ble Supreme Court of India has ultimately observed as follows in paragraphs 19, 20, 21, and 22, which reads as follows:-

“19. It is evident from the foregoing that the appellants' roles were not only essential but also indistinguishable from those of regular employees. Their sustained contributions over extended periods, coupled with absence of any adverse record, warrant equitable treatment and regularization of their services. Denial of this benefit, followed by their arbitrary termination, amounts to manifest injustice and must be rectified.



W.P.No.17600 of 2025

WEB COPY

20. *It is well established that the decision in Uma Devi (supra) does not intend to penalize employees who have rendered long years of service fulfilling ongoing and necessary functions of the State or its instrumentalities. The said judgment sought to prevent backdoor entries and illegal appointments that circumvent constitutional requirements. However, where appointments were not illegal but possibly “irregular,” and where employees had served continuously against the backdrop of sanctioned functions for a considerable period, the need for a fair and humane resolution becomes paramount. Prolonged, continuous, and unblemished service performing tasks inherently required on a regular basis can, over the time, transform what was initially ad-hoc or temporary into a scenario demanding fair regularization. In a recent judgment of this Court in Vinod Kumar v. Union of India⁵, it was held that procedural formalities cannot be used to deny regularization of service to an employee whose appointment was termed “temporary” but has performed the same duties as performed by the regular employee over a considerable period in the capacity of the regular employee. The relevant paras of this judgment have been reproduced below:*

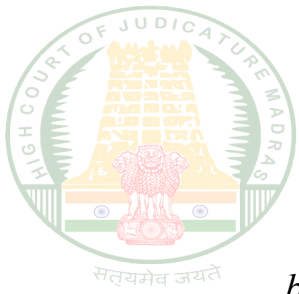
“6. The application of the judgment in Uma Devi (supra) by the High Court does not fit squarely with the facts at hand, given the specific circumstances under which the appellants were employed and have continued their service. The reliance on procedural formalities at the outset



cannot be used to perpetually deny substantive rights that have accrued over a considerable period through continuous service. Their promotion was based on a specific notification for vacancies and a subsequent circular, followed by a selection process involving written tests and interviews, which distinguishes their case from the appointments through back door entry as discussed in the case of Uma Devi (supra).

7. The judgment in the case Uma Devi (supra) also 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...”

21. The High Court placed undue emphasis on the initial label of the appellants' engagements and the outsourcing decision taken after their dismissal. Courts must look beyond the surface labels and consider the realities of employment :- continuous, long-term service, indispensable duties, and absence of any mala fide or illegalities in their appointments. In that light, refusing regularization simply because their original terms did not explicitly state so, or because an outsourcing policy was



WEB COPY



W.P.No.17600 of 2025

belatedly introduced, would be contrary to principles of fairness and equity.

22. The pervasive misuse of temporary employment contracts, as exemplified in this case, reflects a broader systemic issue that adversely affects workers' rights and job security. In the private sector, the rise of the gig economy has led to an increase in precarious employment arrangements, often characterized by lack of benefits, job security, and fair treatment. Such practices have been criticized for exploiting workers and undermining labour standards. Government institutions, entrusted with upholding the principles of fairness and justice, bear an even greater responsibility to avoid such exploitative employment practices. When public sector entities engage in misuse of temporary contracts, it not only mirrors the detrimental trends observed in the gig economy but also sets a concerning precedent that can erode public trust in governmental operations.”

(emphasis supplied)

14. Further, the Hon'ble Supreme Court of India has held that the Government should act as a model employer, and ultimately, in paragraph 27, has directed the regularization of employees who were in continuous employment for more than a decade. For ready reference, the judgement of the Hon'ble Supreme Court of India in **Jaggo's case**, cited supra, paragraph



W.P.No.17600 of 2025

27 is also extracted hereunder:-

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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.”

(emphasis supplied)

15. In the case in hand, though the petitioner had given an undertaking and his appointment letter had a condition that he should not claim any permanency, the fact remains that he has been in continuous service for more than 10 years. His appointment was made on a contractual basis, that too, after following all due procedures, viz., receiving a panel from the Employment Exchange and after conducting an interview. It is not in dispute



W.P.No.17600 of 2025

that this petitioner had been in continuous service for more than ten years.

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16. It is pertinent to mention here that in similar circumstances, based upon the judgment of the Division Bench of this Court in W.A.No.2796 of 2018 and similar subsequent orders, the Government has passed various Government Orders, namely G.O.(Ms) No.5, Environment, Climate Change and Forests (FR.2 (I)) Department, dated 04.01.2022, G.O. (2D) No.72, Environment, Climate Change and Forests (FR.2 (i)) Department, dated 01.04.2023, G.O. (2D) No.11, Environment, Climate Change and Forest (FR.2 (i)) Department, dated 22.01.2024, and G.O. (2D) No.56, Environment, Climate Change and Forest (FR.2 (i)) Department, dated 03.06.2024, regularizing daily wage drivers by relaxing the Rules. This petitioner, being a similarly placed person, must also be given similar relief. Apart from that, in the judgment of the Hon'ble Supreme Court of India in *Jaggo's case*, cited supra, it has been held that the Court must look beyond the surface labels and consider the realities of employment.

17. While considering the petitioner's employment, it is evident that he is rendering indispensable duties, a factum that has not been seriously disputed. The only ground for rejection is that the petitioner had undertaken

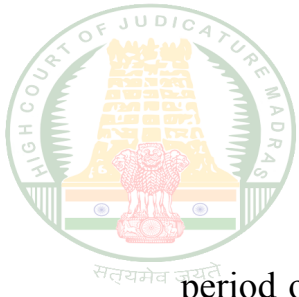


W.P.No.17600 of 2025

WEB COPY

not to claim regularization. As a driver who has been vying for some appointment, gave such an undertaking at the time of his appointment. The said undertaking cannot be blown out of proportion to deny his right to regularization, which has been given to similarly situated persons. The judgment of the Hon'ble Supreme Court of India in *Jaggo's case*, cited supra, has categorically held that the judgment of the Hon'ble Supreme Court of India in *Uma Devi's case*, cited supra, cannot be used as a weapon to deny regularization. Here, according to the facts and circumstances, the continuous employment of the petitioner is not in dispute, and it is further not in dispute that he was appointed after following due procedure without compromising Article 14 of the Constitution of India by giving opportunity to all aspiring candidates through the Employment Exchange. Hence, this Court is of the firm view that the rejection order, without considering this aspect, is liable to be quashed.

18. In the light of the above observation, this writ petition is allowed, and the impugned order dated 26.02.2025 is hereby quashed. The second respondent is directed to regularize the service of the petitioner, within a



W.P.No.17600 of 2025

WEB COPY

period of three months from the date of receipt of a copy of this order. It is made clear that the petitioner would not be entitled to any monetary or service benefits till the date of realization. No costs.

07.07.2025

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Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No

To

1. The Agricultural Production Commissioner
The Government of Tamil Nadu,
and Secretary to Government,
Agriculture and Farmers Welfare Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

2. The Director of Agriculture,
Department of Agriculture,
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3. The Joint Director of Agriculture,

18/20



W.P.No.17600 of 2025

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W.P.No.17600 of 2025

C.KUMARAPPAN, J.

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W.P.No.17600 of 2025

07.07.2025