



W.P.No. 12152 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 24.02.2025

CORAM:

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

W.P.No.12152 of 2024 and
W.M.P. No.13247 of 2024

D. Velmurugan

... Petitioner

VS

1. The Additional Registrar /
Administrator, Tamil Nadu Cooperative Union,
Kilpauk, Chennai 600 010.
2. The Joint Registrar of Cooperative Societies,
Cuddalore Region, No.3, Beach Road,
Cuddalore, Cuddalore District.
3. The Principal,
F.C. 2863, Dr. M.G.R. Institution of
Co-operative Management,
No.3, Beach Road, Cuddalore-1.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus order or direction in the nature of a writ, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.4532/2023/A1, dated 09.02.2024 and quash the same and



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consequently directing the respondents to permit the petitioner to work as Office Assistant in the 3rd respondent institution.

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For Petitioner : Mr. C. Prakasam

For Respondents : Mr. S. Ravi Kumar,
Special Government Pleader.

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order passed by the first respondent in proceedings dated 09.02.2024 and to quash the same and direct the respondents to permit the petitioner to work as Office Assistant in the third respondent institution.

2. In the affidavit filed in support of the writ petition, it had been contended that the petitioner had been appointed as an Office Assistant in the third respondent institution on 07.04.1997. On 07.04.2004, nearly 7 years after the initial appointment, the third respondent had orally instructed that the petitioner should not enter office. Enquiry was not conducted and there was no allegation of any misconduct on the part of the petitioner. Thereafter, on 27.07.2017, the petitioner again was



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permitted to joint duty as Office Assistant on daily wages basis. It is claimed that he continuously worked from 1997 to 2004 and again from 2017 till 13.03.2023 when he was again instructed not to attend duty. The petitioner claims that a right had arisen to him since he worked continuously for more than 480 days, that he should be regularised.

3. A counter affidavit had been filed on behalf of the respondent wherein the dates on which the petitioner had been working had been given in the form of tabular column. The same is as follows:

<i>Period in which the petitioner was engaged on daily wages</i>		<i>Remarks</i>	<i>Payment mode</i>
From	To		Voucher payment through Institute.
April 1997	September 1998		
October 1998		not engaged	
Nov 1998	February 2002		
March 2002		not engaged	
April 2002	February 2004		
March 2004	July 2017	Not engaged / out of employment for 13 years	
August 2017	November 2017		
December 2017	November 2018	Not engaged / out of employment	
Dec 2018	June 2019		
July 2019	10.03.2023	Engaged through outsourcing Agencies	



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It had also been contended that the petitioner was working only through voucher payment on daily wages from August 2017 till November 2017 and thereafter from December 2017 till November 2018 he was out of employment and again from December 2018 till June 2019 he had been engaged on daily wages and from July 2019 till 10.03.2023 he was engaged through an outsourcing agency. It has been contended that the claim of the petitioner that he had been in continuous service is not correct and therefore, the relief sought for by the petitioner should be rejected by this Court.

4. The learned counsel for the petitioner placed reliance on the judgement of the Hon'ble Supreme Court reported in **2024 SCC Online SC 3826 (Jaggo vs. Union of India and others)** wherein, while examining the plight of the workers who had been engaged on daily wages and regularisation had been denied, the Honble Supreme Court had drawn a distinction between those who had entered into service through back door which would be called as improper employment and those who had been engaged on daily wages on normal basis and work had been exploited. In this regard, the Hon'ble Supreme Court had observed and held as follows:



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"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*



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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 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



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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 acknowledgement 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 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



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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."

5. In the instance case, it is seen that there is no allegation that the petitioner had been appointed as an office assistant illegally or that his initial appointment was unlawful. On the other hand, it is stated that he had been employed atleast from December 2018 till June 2019 and thereafter from July 2019 till March 2023 through outsourcing agency. It is thus seen that the third respondent had also utilised the services of the petitioner on intermittent intervals, but had taken a decision to engage him when they wanted and not to engage him when they did not want him. That approach may not be proper in view of the guidelines and the dictum laid down by the Hon'ble Supreme Court. The respondents will necessarily have to abide by the directions of the Hon'ble Supreme Court.

6. In view of the above reasons, the impugned order is set aside and the matter is remitted back to the first respondent to consider the judgment of the Hon'ble Supreme Court and thereafter pass appropriate



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orders relating to the service conditions of the petitioner herein. Before passing any fresh orders, the first respondent must give an opportunity of being heard to the petitioner who may explain the circumstances under which he had initially joined as office assistant and the work discharged by him during his employment as office assistant. Any written representation by the petitioner may also be received by the first respondent before further orders are passed. The first respondent may pass fresh orders within a period of three months from the date of receipt of a copy of this order.

7. With the above directions, this writ petition stands disposed of.

No costs. Consequently connected miscellaneous petition is closed.

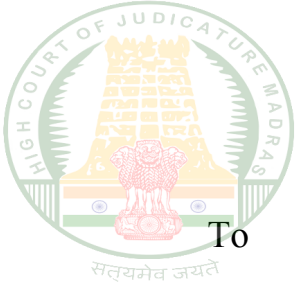
24.02.2025

Internet : Yes / No

Index: Yes / No

Speaking order / Non speaking order

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To

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1. The Additional Registrar /
Administrator, Tamil Nadu Cooperative Union,
Kilpauk, Chennai 600 010.
2. The Joint Registrar of Cooperative Societies,
Cuddalore Region, No.3, Beach Road,
Cuddalore, Cuddalore District.
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C.V. KARTHIKEYAN, J.

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