



W.A No. 2399 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-09-2025

CORAM

THE HON'BLE MR JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

W.A No. 2399 of 2025

AND

CMP.No. 18281 of 2025

1. The Executive Director,
The Handloom Export Promotion Council,
Nungambakkam,
Chennai -600034.

2.The Chairman,
The Handloom Export Promotion Council,
Nungambakkam,
Chennai -600034.

..Appellants

Vs

S. Vasantha
W/o. Late Sankara

..Respondent

Writ Appeal is filed under Clause 15 of Letter Patent to set aside the order dated 29.10.2024 passed in W.P.No. 30331 of 2011.



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For Appellants: Mr. N.a.Srinivasan

For Respondent : Mr.D.Muthukumar

For M/s.Paul and Paul

JUDGMENT

(Made by ***HEMANT CHANDANGOUDAR, J.***)

This intra-court appeal assails the order dated 29.10.2024 passed by the learned Single Judge in W.P. No.30331 of 2011. By the said order, the learned Single Judge held that the writ petitioner was entitled to invoke the doctrine of legitimate expectation for being confirmed in the post in which she was appointed, following the decision of the Hon'ble Supreme Court in The Secretary, State of Karnataka vs. Uma Devi [(2005) 4 SCC 1]. The learned Single Judge further permitted the writ petitioner to submit a representation to the respondents therein for regularisation of her services and, upon receipt of such representation, directed the respondents to complete the exercise within four weeks thereafter.



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2. The writ petitioner asserts that she was appointed as a Sweeper with effect from 01.05.1999 and had discharged the duties of Sweeper on a regular basis, akin to that of a permanent employee. In May 2011, the respondents outsourced the sweeping and gardening work of the Export Promotion Council on the ground that the writ petitioner had not produced her school certificate pertaining to educational qualifications. This prompted her to approach this Court.

3. Learned counsel for the appellants contended that the writ petitioner/respondent herein was not entitled to regularisation of her services primarily on the ground that her appointment was not against a sanctioned post, but was purely temporary in nature. It was further submitted that the writ petitioner/respondent did not possess the requisite qualification for appointment to the post of Sweeper and, therefore, the impugned order passed by the learned Single Judge is unsustainable in law.



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4. Per contra, learned counsel for the writ petitioner/respondent submitted that the learned Single Judge, after considering all the relevant facts and following the settled legal principles, had rightly passed the impugned order, which does not warrant any interference.

5. We have carefully considered the rival submissions of the learned counsel for the parties and perused the materials placed on record.

6. It is an admitted fact that the respondent/writ petitioner was appointed as a Sweeper on 01.05.1999 and continued in service until 02.05.2011, when the appellants issued an acceptance letter in favour of a Manpower Agency for carrying out the sweeping work. This clearly implies that the writ petitioner/respondent was in continuous employment for more than a decade. As regards the grounds urged in this appeal, it is relevant to note that, more recently, the Hon'ble Supreme Court in Jaggo vs. Union of India and Others [SLP (C) No.5580 of 2024, dated 20.12.2024], while dealing with the issue of regularisation of services, emphasised the following principles:



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- i. Employment status must be determined by the actual, continuous, and essential duties performed, not merely by the label of “temporary,” “part-time,” or “contractual.”
- ii. Continuous service for over a decade without adverse records creates a legitimate expectation of fair treatment and consideration for regularisation.
- iii. The judgment in Uma Devi bars regularisation of illegal or backdoor appointments but permits consideration of employees in irregular appointments who have served long against sanctioned posts.
- iv. Even contractual/temporary employees are entitled to prior notice and a fair hearing before termination, as arbitrary action would violate Article 14 and the principles of fairness.
- v. Replacing long-serving employees with outsourced workers for the same perennial duties is impermissible and amounts to unfair labour practice. For basic duties such as cleaning or gardening, insisting on formal educational qualifications after a decade of satisfactory service is unreasonable.



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vi. Furthermore, in paragraph 12 of the said judgment, it was held that despite being labelled as “part-time workers,” the appellants therein performed essential tasks on a daily and continuous basis over extended periods, ranging from over a decade to nearly two decades. Their engagement was not sporadic or temporary in nature; rather, it was regular and akin to the responsibilities typically associated with sanctioned posts.

7. In the present case, the writ petitioner/respondent had worked as a Sweeper for more than a decade without any interruption in service. It is not in dispute that she had studied up to the 8th standard. The appellants sought to displace her services by engaging outsourced workers. The materials on record clearly establish that the writ petitioner/respondent had been discharging the duties of a regular employee throughout the period of her engagement. Significantly, no material has been placed on record by the appellants to substantiate their contention that her appointment was either limited in duration or otherwise irregular in nature.

8. The learned Single Judge has also referred to a communication dated 30.08.2006, which specifically records that the writ petitioner was appointed as



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a Sweeper on 01.05.1999 and that she was drawing a monthly salary. A bare perusal of the said communication reveals that it does not describe her appointment as temporary or ad hoc. On the contrary, it indicates continuity of service on a monthly salaried basis. This documentary evidence completely falsifies the stand of the appellants that the writ petitioner/respondent was appointed only on a temporary basis.

9. In light of the legal principles laid down by the Hon'ble Supreme Court in the aforesaid judgment, we find no infirmity in the impugned order passed by the learned Single Judge. The appeal is devoid of merit and is accordingly dismissed. Consequently, the connected Miscellaneous Petition is closed. There shall be no order as to costs.

(R.S.K. J.,) (H.C. J.,)

01.09.2025

Index : Yes / No

Internet : Yes/No

Neutral Citation : Yes / No

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