



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 02.04.2025

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

W.P.No.38510 of 2024

N.Idayathullah

.. Petitioner

Vs.

1.The New College,
University of Madras,
No.147, Peters Road,
Royapettah,
Chennai – 14.

2.The Secretary,
Higher Education Department,
Secretariat,
Chennai – 600 009.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st and 2nd respondent to consider representation of the petitioner dated 11.11.2024 and to pass appropriate orders to regularize his service as in the post of Assistant in one of the available permanent post in 1st respondent's University with effect from completion of his 25 years service without break i.e., from 01.10.1999 with all consequential monetary and service benefits, within a stipulated time as fixed by this Court.



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For Petitioner	.. Mr.V.Arunkumar
For R1	.. No appearance
For R2	.. S.Arumugam, Govt. Advocate

ORDER

The Writ Petition has been filed in the nature of a Mandamus seeking a direction against the respondents to examine a representation dated 11.11.2024 by which representation the petitioner sought regularization of his service in the post of Assistant in anyone of the available permanent post in the 1st respondent University with effect from completion of 25 years of service from 01.10.1999. The petitioner also seeks monetary benefits and service benefits.

2.In the affidavit filed in support of the writ petition, it had been stated that the petitioner was working Security Guard-cum-Office Assistant under the New College Institute of Management at Chennai on temporary basis on 01.10.1999 without any break. He was paid with consolidated salary. It had been stated that since he had been put in 25 years and more service continuously, he had given a representation seeking his service to be regularised. This writ petition has been filed in the nature of a Mandamus seeking consideration of the said representation.



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3. In this connection, instructive reference can be made to the judgment of the Hon'ble Supreme Court 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 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.



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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.

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



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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.It is not the case of the respondents that petitioner's initial appointment is irregular. He had been exploited continuously from the year 1999 onwards for over 25 years. It would only appropriate that the respondents also prove that they are a model employer.

5.In view of the above dictum laid down by the Hon'ble Supreme Court, a direction is given to consider the representation given by the petitioner and to pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. Accordingly, this Writ Petition stands disposed of. No costs.

02.04.2025

Index:Yes/No
Internet:Yes/No
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8

C.V.KARTHIKEYAN,J.

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