



W.P(MD)No.6679 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.06.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.P(MD)No.6679 of 2025

K.Mathayee

... Petitioner

Vs

1. The Secretary,
Home (Courts IV) Department,
Government of Tamil Nadu,
Chennai.

2. The Tamil Nadu State Legal Services Authority,
Rep. Through its Member Secretary,
North Fort Road,
High Court Campus,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents 1 and 2 herein to consider petitioner's representation dated 28.12.2024 in light of order dated 22.09.2017 made in W.P.Nos. 29346, 29212, 15668, 13545, 4989, 4990, 10190, 14508, 7594, 7595 of 2014.



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For Petitioner : Mr.R.Paranjothi
M/s. Kbs Law Office,

For Respondent : Mr.J.Ashok (R1)
Additional Government Pleader

: Mr.J.Alaguram Jothi (R2)

ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

The writ on hand has been instituted to direct the respondents 1 and 2 to consider the petitioner's representation, dated 28.12.2024, in the light of the order passed by the Principal Seat of this Court in W.P.Nos. 29346, 29212, 15668, 13545, 4989, 4990, 10190, 14508, 7594, 7595 of 2014, dated 22.09.2017.

2.The petitioner was temporarily appointed as Masalchi at Trichirappalli Legal Services Authority. She was receiving consolidated pay salary of Rs.1,000/- per month. She worked continuously as consolidated pay employee. She made an application seeking regularization of her services. Since the application was not considered, she filed a writ petition in W.P(MD)No.15232 of 2011. This Court

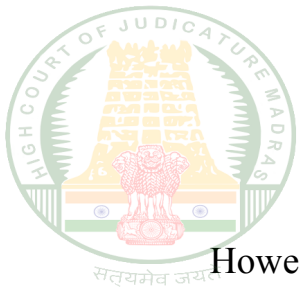


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directed the Legal Services Authority to dispose of the representation.

Originally the Legal Services Authority has rejected the representation.

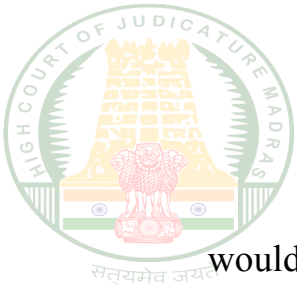
Challenging the order of rejection, the petitioner again filed a writ petition in W.P(MD)No.18126 of 2014. The representation was originally rejected mainly on the ground that the retrospective regularization cannot be granted in view of the legal principles settled by the Hon'ble Supreme Court of India, which was implemented by the Government. The Government of Tamil Nadu also issued G.O(Ms) No. 74, Personal and Administrative Reforms (F) Department, dated 27.06.2013 in the matter of grant of regularization. The writ petition in W.P(MD)No.18126 of 2014 was disposed of by the learned Single Judge on 16.10.2019, setting aside the order of rejection passed by the Government in G.O.(D)No.190, Home (Courts-IV) Department, dated 19.03.2014 and a direction was issued to regularize the services of the writ petitioner in the post of Office Assistant/Masalchi in the time scale of pay from the date of appointment on 27.07.2005. Pursuant to the orders of the learned Single Judge, dated 16.10.2019, the petitioner was regularly absorbed in the sanctioned post of Office Assistant by the Tamil Nadu State Legal Services Authority, vide order dated 27.11.2019.



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However, the benefit of regularization was granted from the date of passing of the order by the Tamil Nadu State Legal Services Authority i.e., 27.11.2019. The said regularization order remains unchallenged. Without challenging the order of regularization and after accepting the order of regularization, the petitioner has chosen to give another representation for grant of retrospective regularization. Based on the said representation, the present writ petition came to be instituted.

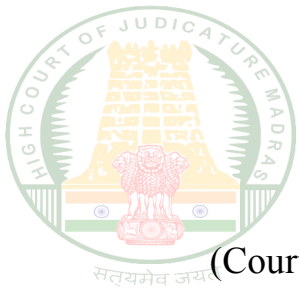
3.The *modus operandi* of an irregular appointee for securing regularization in violation of the service Rules are settled by the Hon'ble Supreme Court. In the present case, it is apparent and therefore, the Courts in such circumstances are expected to be cautious and shall exercise restraint in granting such relief which is otherwise unconstitutional and infringing the right of all other eligible candidates, longing to secure public employment through open competitive process. Equal opportunity in public employment is constitutional mandate. The persons appointed through back door method must be sent out from the door through which they entered into public services. If the Courts allow such back door appointments to continue in government service, it



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would result in an unconstitutionality and by depriving the right of all other eligible candidates. Pertinently, this back door appointments will result in denial of opportunity to oppressed and reserved category candidates. No reservation has been followed in back door appointments. This exactly is the reason the constitutional Courts time and again reiterated the back door appointments are infringing the rights of all other eligible candidates to secure public employment through reservations contemplated under the service Rules. The impact of back door appointments are causing havoc in public appointments and thus, the Courts while granting relief to such back door appointees must be cautious.

4.The case on hand is a classic case, where the petitioner through some influential person could able to secure an appointment on consolidated pay salary. Pertinently, the petitioner could not be able to produce any order of appointment. She was allowed to continue as a consolidated pay employee in the State Legal Services Authority. Thereafter, she submitted a representation to regularize her service. The Government rejected the representation vide G.O.(D)No.190, Home



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(Courts-IV)Department, dated 19.03.2014. The said Government order of rejection was challenged in a writ petition and the matter was listed before the learned Single Judge, despite the fact that it is a judicial service matter, ought to have been listed by the Registry before the Division Bench of this Court. The learned respective Counsels, who appeared then in the case before the Court had not brought to the notice of the learned Single Judge that it is a judicial service matter and to be heard by the Hon'ble Division Bench of this Court. The learned Single Judge set aside the rejection order and directed the respondents therein to regularize the services from the date of appointment. The petitioner has not filed any contempt petition. Instead she waited and secured the order of regularization and the said order remains unchallenged. After some time, she submitted a representation to grant retrospective regularization. Since that was not considered, again the present writ petition came to be instituted. Once the order of regularization is accepted by the petitioner, she is estopped from submitting any further representation seeking retrospective regularization since the date of regularization became final, in view of the order passed by the respondent in pursuance of the orders of the Writ Court dated 16.10.2019 in W.P(MD)No.18126 of 2014.



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5.As far as the appointments in the Judicial Departments are concerned, the Hon'ble Supreme Court of India settled the issues in the case of ***Renu and others Vs. District and Sessions Court, Tiz Hazari and another*** reporting in ***Manu SC 0096 2019***. The three Judges Bench of the Hon'ble Supreme Court of India has issued a direction that there should not be any irregular or illegal appointment in the Judicial Department, in view of the legal principles settled by the Constitution Bench. Paragraph Nos.33, 34 and 35 of the judgment in Renu's case reads as under:

“33. We had the advantage of the response given by the High Courts and the State. Some of the States like Jharkhand, Kerala, Madhya Pradesh, Orissa, Sikkim and Uttrakhand have pointed out in their respective affidavits that the recruitment of most of the posts are made by centralised selection and some of those posts are transferable. Some States like Jharkhand have pointed out that there is a centralised recruitment of all the posts but division wise and are transferable within the division. Some of the States like Punjab & Haryana and Uttar Pradesh have pointed out that they have already drafted the rules providing for centralised recruitment. The State of Himachal Pradesh and the High Court thereof have shown inclination towards the centralised recruitment. In the State of Madhya Pradesh, though rules do not provide for centralised recruitment but it is so done under the administrative order of the Chief Justice of the High Court. Other States and the High Courts have also made suggestions that it is the need of the hour to provide for centralised recruitment.



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34. We would like to make it clear that the High Court is a constitutional and an autonomous authority subordinate to none. Therefore, nobody can undermine the constitutional authority of the High Court, and therefore the purpose to hear this case is only to advise the High Court that if its rules are not in consonance with the philosophy of our Constitution and the same may be modified and no appointment in contravention thereof should be made. It is necessary that there is strict compliance with appropriate Rules and the employer is bound to adhere to the norms of [Articles 14 & 16](#) of the Constitution before making any recruitment.

35. In view of the above, the appeal stands disposed of with the following directions:

i) All High Courts are requested to re-examine the statutory rules dealing with the appointment of staff in the High Court as well as in the subordinate courts and in case any of the rule is not in conformity and consonance with the provisions of [Articles 14 and 16](#) of the Constitution, the same may be modified.

ii) To fill up any vacancy for any post either in the High Court or in courts subordinate to the High Court, in strict compliance of the statutory rules so made. In case any appointment is made in contravention of the statutory rules, the appointment would be void ab-initio irrespective of any class of the post or the person occupying it.

iii) The post shall be filled up by issuing the advertisement in at least two newspapers and one of which must be in vernacular language having wide circulation in the respective State. In addition thereto, the names may be requisitioned from the local employment exchange and the vacancies may be advertised by other modes also e.g. Employment News, etc. Any vacancy filled up without advertising as prescribed hereinabove, shall be void ab-

initio and would remain unenforceable and inexecutable except such appointments which are permissible to be filled up without advertisement, e.g., appointment on compassionate grounds as per the rules applicable. Before any appointment is made, the eligibility as well as suitability of all candidates should be screened/tested while adhering to the reservation policy adopted by the State, etc., if any.



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iv) Each High Court may examine and decide within six months from today as to whether it is desirable to have centralised selection of candidates for the courts subordinate to the respective High Court and if it finds it desirable, may formulate the rules to carry out that purpose either for the State or on Zonal or Divisional basis.

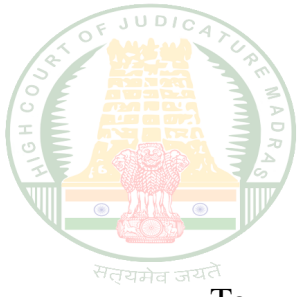
v) The High Court concerned or the subordinate court as the case may be, shall undertake the exercise of recruitment on a regular basis at least once a year for existing vacancies or vacancies that are likely to occur within the said period, so that the vacancies are filled up timely, and thereby avoiding any inconvenience or shortage of staff as it will also control the menace of ad-hocism.

6. Even after the Hon'ble Supreme Court issued directions to the Judicial Departments, violations are made.

7. In the present case, the date of regularization of the petitioner has been already accepted by her and became final. That being so, she is not entitled for any further relief. Consequently, the writ petition stands dismissed. There shall be no order as to costs.

[S.M.S., J.] [A.D.M.C., J.]
16.06.2025

Index: Yes/No
Internet: Yes/No
NCC: Yes/No
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To
The Secretary,
Home (Courts IV) Department,
Government of Tamil Nadu,
Chennai.

Copy to
The Registrar General,
Madras High Court,
Madras.



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S.M.SUBRAMANIAM, J.
and
DR.A.D.MARIA CLETE, J.

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