



W.A(MD)No.1820 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.1820 of 2025
and
C.M.P(MD)No.10303 of 2025**

1.The Director of School Education,
College Road, Chennai – 600 006.

2.The Chief Educational Officer,
Pudukkottai District,
Pudukkottai.

3.The District Educational Officer,
Aranthangi,
Pudukkottai District.

... Appellants/Respondents

vs.

S.Jeyalalitha

... Respondent/Writ Petitioner

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 02.12.2024 made in W.P(MD)No.22477 of 2017 on the file of this Court.



W.A(MD)No.1820 of 2025

WEB COPY

For Appellants : Mr.J.Ashok
Additional Government Pleader

For Respondent : Mr.R.Surya
for M/s.KBS Law Office

JUDGMENT

(Judgment of the Court was delivered by G.ARUL MURUGAN, J.)

This intra-court appeal is filed challenging the order dated 02.12.2024 passed in W.A(MD)No.22477 of 2017.

2.The Writ Petition filed by the first respondent herein, seeking regularization of service, was allowed by the writ Court by directing the appellant/Department to regularize the services of the first respondent.

3.Admittedly, the first respondent was appointed by the Headmaster of the School as a part-time Waterwoman.



W.A(MD)No.1820 of 2025

WEB COPY

4.The learned Additional Government Pleader appearing for the appellants contended that the competent person to appoint the first respondent would be the District Educational Officer. Since the appointment was made by the Headmaster of the School, who is not the competent appointing authority, such an appointment is invalid. Therefore, the first respondent is not entitled to seek any regularization, as the initial appointment itself was not legally valid.

5.The issue of regularizing the employee appointed on a part-time basis in a School was considered by the Division Bench of this Court in the case of the State of Tamil Nadu and others Vs. P.Lakshmi in W.A.No. 3562 of 2019, dated 17.12.2024, in which one of us was a party. The Division Bench followed the decision of the Hon'ble Supreme Court in the case of Secretary to Government, School Education Department Vs. R.Govindasamy and others [(2014) 4 SCC 769], wherein the Hon'ble Supreme Court held that part-time employees are not entitled to seek regularization.



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6.The relevant portion in the case of **R.Govindasamy's case** (cited supra) reads as follows:

“5.The issue involved here remains restricted as to whether the services of the part-time sweepers could have been directed by the High Court to be regularised. The issue is no more res integra.

6.In State of Karnataka v. Umadevi [AIR 2006 SC 1806], this Court held as under: (SCC p.40, para 48)

“48. ... There is no fundamental right in those who have been employed on daily wages or temporarily or on contractual basis, to claim that they have a right to be absorbed in service. As has been held by this Court, they cannot be said to be holders of a post, since, a regular appointment could be made only by making appointments consistent with the requirements of Articles 14 and 16 of the Constitution. The right to be treated equally with the other employees employed on daily wages, cannot be extended to a claim for equal treatment with those who were regularly employed. That would be treating unequals as equals. It cannot also be relied on to claim a right to be absorbed in service even though they have never been selected in terms of the relevant recruitment rules.”



7. In Union of India v. A.S.Pillai [(2010) 13 SCC 448], this Court dealt with the issue of regularisation of part-time employees and the Court refused the relief on the ground that part-timers are free to get themselves engaged elsewhere and they are not restrained from working elsewhere when they are not working for the authority/employer. Being the part-time employees, they are not subject to service rules or other regulations which govern and control the regularly appointed staff of the department. Therefore, the question of giving them equal pay for equal work or considering their case for regularisation would not arise.

8. This Court in State of Rajasthan v. Daya Lal [AIR 2011 SC 1193], has considered the scope of regularisation of irregular or part-time appointments in all possible eventualities and laid down well-settled principles relating to regularisation and parity in pay relevant in the context of the issues involved therein. The same are as under: (SCC p.435, para 12)

“(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant



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posts. The equality clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be “litigious employment”. Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right.

(iii) Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to



W.A(MD)No.1820 of 2025

WEB COPY

claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.

(iv) Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees.

(v) Part-time temporary employees in government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.”

6.In view of the decisions of the Honorable Supreme Court of India, the order of writ Court in allowing the Writ Petition directing the appellant/Department to regularize the services of the first respondent, who was appointed on a part-time basis, cannot be sustained.



W.A(MD)No.1820 of 2025

WEB COPY

7. In view of the above facts and circumstances, the order of the writ Court is liable to be interfered with and is accordingly set aside. The Writ appeal is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

[S.M.S.,J.] & [G.A.M.,J.]
21.08.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
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W.A(MD)No.1820 of 2025

WEB COPY

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W.A(MD)No.1820 of 2025

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ORDER MADE IN
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