



WP(MD).No.11210 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

WP(MD).No.11210 of 2019

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WMP(MD).Nos.8565 and 8566 of 2019

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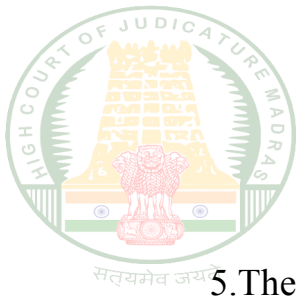
WMP(MD).No.3209 of 2020

C.G.Vijayakumar

.. Petitioner

Vs.

- 1.The Union Of India
Rep.by the Secretary,
Ministry of Micro, Small and
Medium Enterprises (A) Department,
New Delhi.
- 2.The Coir Board,
Rep. By Its Secretary,
Coir House, M.G.Road,
Ernakulam, Cochin- 628 016.
- 3.The Administrative Officer,
Coir Board, Ministry Of MS & ME,
Coir House, M.G.Road, Erankulam,
Cochin-682 016.
- 4.The Regional Coir Development Officer,
Regional Extension Centre,
Coir Board, Pillayarpatti (Post),
Vallam (Via),
Thanjavur District - 613 403.



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5. The State Of Tamil Nadu
Rep. By Its Secretary To Government,
Industries Department,
Secretariat,
Chennai- 600 009.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call the records relating to the order No.A-21021/57/2016-ADM (Estt) dated 04.04.2017 passed by the third respondent and quash the same and consequently to direct the respondents to regularize the service of the petitioner from the date of first appointment i.e. from 01.02.1995 and refix the petitioner's pay in the appropriate scale of pay and grant all the consequential service, promotion and monetary benefits within a time limit to be fixed by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.A.Thirumurhty

For Respondents : Mr.K.R.Badurus Zaman
Government Advocate



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ORDER

Under assail is the order passed dated 04.04.2017 by the third respondent rejecting the request of the for recovery and regularization of “*Badli*” Service rendered in the Hindustan Coir Board.

2. The case of the writ petitioner is that the second respondent, the Coir Board, Erankulam, Cochin has called for list of candidates who has passed the advance artisans training course from the employment exchange for selection and appointment in the second respondent board.

2(i). The writ petitioner was sponsored by the employment exchange and he was appointed on merits and joined duty on 01.09.1985 in Hindustan Coir at Tanjavur District and monthly salary was paid calculating at daily rate basis. After completion of thirteen years service of temporary service, the second respondent that is the Coir Board posted him as miscellaneous worker on permanent status in Hindustan Coir at Ernakulam.



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2(ii). Though, the writ petitioner was qualified and appointed in accordance with the recruitment norms of sponsoring the employment exchange interview and due selection process stipulated by the board and though he had put in continuous service from 1995, he was not granted permanent status from 1995 to 2008. He made several representations before the second respondent and he was discriminated and denied permanent status in thirteen years which is illegal. Subsequently, he was demoted as lower division clerk on 26.08.2011 and he was posted at Export Marketing One Section at Ernakulam. Subsequently, he was appointed as upper division clerk and posted at Alappuzha. Subsequently, he was transferred to the fourth respondent that is the Regional Coir Department Officer, regional extension center at Tanjavur by an order dated 06.01.2025.

2(iii). In a similar issue, related to the second respondent coir board, this Hon'ble Court by a common order on 24.07.2012 in a batch of writ petitions in WP(MD).Nos.6568 to 6570 and 6936 of 2001 directing the second respondent herein coir board to regularize the service of the petitioner therein from the date of their initial appointment and to grant



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notional pay fixation and benefits for the past years and grant the monetary benefits. As per the direction issued by this Hon'ble Court, the respondent two to four, regularized the service of the employees, considering their claim. Though, he was appointed in accordance with recruitment clauses and procedures, the service was not regularized. Hence, this writ petition.

3. The learned counsel appearing for the petitioner would submit that the similar issue related to the second respondent coir board, this Hon'ble Court has passed a common order dated 24.07.2012, in a batch of writ petitions and the impugned order came to be passed on 04.04.2017, is contrary to and violation of the order passed by this Hon'ble Court. The benefit of regularization of service has been granted to other workers as per the orders of this Hon'ble Court, the denial of the same benefit to the writ petitioner is discriminatory and violation of Article 14 of the Constitution of India.



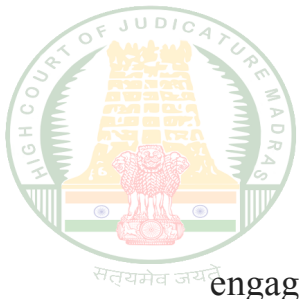
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4. *Per-contra*, the learned counsel appearing for the respondents would submit that the writ petitioner was originally engaged as a “*Badli*” in Hindustan Coir along with other similar candidates. There is no post of “*Badli*” in the establishment of the Coir Board and it is a temporary engagement of suitable candidates, reserved for deployment as against the Short Term Leave Vacancies Etc. of the regular employees. He would submit that the writ petitioner has worked as a “*Badli*” worker as temporary arrangement only for deployment of works as and when necessary for ensuring un-interrupted functioning of power loom factory and there is no such post in the establishment of the board with effect from 01.02.1995 and therefore, his request cannot be acceded to and there is no necessity to interfere with the order impugned.

5. This Court has considered the arguments advanced on either side and perused the available material on record.

6. It is seen from the typed set of papers, the writ petitioner was engaged as a “*Badli*” worker in Hindustan Coir, it is not in dispute that there is no post for “*Badli*” in the Coir Board and the writ petitioner was



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engaged as on a temporary measure. He was regularized on 01.07.2008.

It is also seen from records when vacancies arose in the post of miscellaneous worker i.e., in the permanent post “*Badli*” the suitable and qualified person as per the recruitment rules in force for such post, they were considered for appointment. Similarly, the writ petitioner's case also considered for regularization in the post of miscellaneous worker, with effect from 02.07.2008. Thereafter, the writ petitioner was demoted as lower division clerk on 26.08.2011 and posted at Export Marketing One Section at Ernakulam. Subsequently, he was appointed as upper division clerk and he is continuing the said post. Thereafter, he was transferred to the fourth respondent extension, Tirunelveli by an order dated 06.04.2015.

7. The claim of the writ petitioner is that he has joined duty on 01.02.1995 at Hindustan Coir as a “*Badli*” worker i.e., from initial date of appointment as “*Badli*” worker has to be regularized. According to the respondent board, the writ petitioner was engaged only as a “*Badli*” worker as a temporary arrangement only for deploying works as and when necessary for ensuring un-interrupted functioning of the factory



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and moreover there is no such post in the establishment in which the board was established in the year **1995**, the regularization of service can be claimed if the writ petitioner has been appointed as per the recruitment process in a manner known to law. The temporary service rendered by the writ petitioner cannot be taken into consideration for regularization, it is relevant to refer the judgment of the Hon'ble Supreme Court in the case of **The Secretary to the State of Karnataka and Others Vs. Umadevi and Others** reported in [2000 (4) SCC 1].

8(i).It is relevant to mention that in the context of the legal principles set out in the paragraph, the irregular, illegal and backdoor appointments would not provide any right to secure permanent absorption or regularization.

8(ii). The relevant portion of the judgment is extracted hereunder:-

“3. But, sometimes this process is not adhered to and the Constitutional scheme of public employment is by-passed. The Union, the States, their departments and instrumentalities have resorted to irregular appointments, especially in the lower rungs of the service, without reference to the duty to ensure a proper appointment procedure through the Public Service Commission or otherwise as per the rules adopted and to permit these



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irregular appointees or those appointed on contract or on daily wages, to continue year after year, thus, keeping out those who are qualified to apply for the post concerned and depriving them of an opportunity to compete for the post. It has also led to persons who get employed, without following a regular procedure or even through the backdoor or on daily wages, approaching Courts, seeking directions to make them permanent in their posts and to prevent regular recruitment to the concerned posts. Courts have not always kept the legal aspects in mind and have occasionally even stayed the regular process of employment being set in motion and in some cases, even directed that these illegal, irregular or improper entrants be absorbed into service. A class of employment which can only be called 'litigious employment' has risen like a phoenix seriously impairing the constitutional scheme. Such orders are passed apparently in exercise of the wide powers under Article 226 of the Constitution of India. Whether the wide powers under Article 226 of the Constitution is intended to be used for a purpose certain to defeat the concept of social justice and equal opportunity for all, subject to affirmative action in the matter of public employment as recognized by our Constitution, has to be seriously pondered over. It is time that Courts desist from issuing orders preventing regular selection or recruitment at the instance of such persons and from issuing directions for continuance of those who have not secured regular appointments as per procedure established. The passing of orders for continuance tends to defeat the very Constitutional scheme of public employment. It has to be emphasized that this is not the role envisaged for High Courts in the scheme of things and their wide powers under Article 226 of the Constitution of India are not intended to be used for the purpose of perpetuating illegalities, irregularities or improprieties or for scuttling the whole scheme of public employment. Its role as the sentinel and as the guardian of equal rights protection should not be forgotten."



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9. In view of the legal principles settled by the Constitutional Bench of the Hon'ble Supreme Court of India. The temporary arrangements made by the Coir Board, as the writ petitioner served as a daily rate employee cannot be continued to be in perpetuity for granting the relief of permanent absorption or regularization. As far as the initial engagement is concerned, no recruitment rules are followed, reservation rules are not followed and other service rules for selection has not been complied with, therefore, such appointment if resulted in permanent absorption, it will cause gross injustice to the society at large.

10. There is no merit in this writ petition and is liable to be dismissed. Hence this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

25.03.2025

NCC : Yes/No
Index : Yes/No
Internet : Yes
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