



W.P(MD)No.26353 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2025

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THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

WP(MD)No.26353 of 2019

Dr.R.Ponniselvan

...Petitioner

vs.

1.State of Tamil Nadu,
Rep. by its Secretary to Government,
Revenue Department,
Fort St.George, Chennai - 600 009.

2.The Commissioner,
Land Administration,
Chepauk, Chennai - 600 005.

3.The District Collector / Chairman,
(Rajah's College, Thiruvaiyaru)
Thanjavur District, Thanjavur.

...Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 3rd respondent relating to the impugned order in Na.Ka.No.937/2015/Sath.Ee. dated 06/11/2019 and quash the same and consequently to direct the 3rd respondent to regularize the service of the petitioner and bring him under time scale of pay and also give all other service benefits to him.

For Petitioner : Mr.B.Anandan

For Respondents : Mr.M.Sarangan,
Additional Government Pleader
for R1 to R3



W.P(MD)No.26353 of 2019

ORDER

The present writ petition has been filed to quash the rejection order passed by the third respondent on 06.11.2019.

2. The learned counsel for the petitioner would submit that the petitioner has completed Master of Philosophy and Ph.D. It is his specific submission that the petitioner is eligible to be appointed in the post of Assistant Professor as per the norms fixed by the University Grants Commission. He would further submit that the petitioner is working as a Professor in Sociology Department in Raja College, Thiruvaiyaru. He would also submit that initially the petitioner was appointed as a contingency staff in Raja College vide order dated 15.07.1994. Since then, the petitioner has been working for more than 25 years without there being any break. It is his further submission that in a similar case in W.P.(MD)No.12308 of 2005, this Court has directed the authorities to regularise one of the employees working in the Raja College. Hence, he prayed to interfere with the impugned order and allow this petition.

3. The said contentions was totally objected by the learned Additional Government Pleader appearing for the respondents. He would contend that the entity of chatram is run by the income from the properties owned by the



W.P(MD)No.26353 of 2019

chatram administration and no fund is apportioned by the Government, except the disbursement of pay and allowances to the staffs, who were appointed in the posts sanctioned by the Government. He would further contend that Raja College is having two streams, one is aided and another is self finance. In the Aided stream, there are 12 Assistant professor (Tamil) posts, 2 Assistant Professor (English) posts and 4 Assistant Professor (Sanskrit) posts and except those posts, there are no other sanctioned posts and for all these sanctioned posts, the Government has been disbursing salary. It is his further submission that this Court while exercising the power of judicial review cannot direct the Government to create a new post and unless a post is created, the question of regularizing the petitioner does not arise. Hence, he prayed to dismiss the Writ Petition.

4. I have given anxious considerations to either side submissions.

5. It is an admitted fact that the petitioner was appointed as a contingency staff in the year 1994 and subsequently, he has been working as a Professor in Sociology Department in self-finance stream. It is also an admitted fact that the said post is not sanctioned one and there are about 39 similar Assistant Professors, who have been working in self-finance stream. While looking at the impugned order, the main ground urged by the third



W.P(MD)No.26353 of 2019

respondent is that there is no sanctioned post. It is well settled principle of law that while considering the prayer for regularization, Courts cannot direct the authorities to create a new post and regularise those persons who were temporarily appointed. It is fundamental principle that, any public employment has to be filled only based upon the recruitment rules. Here, though there is no serious dispute about the petitioner's eligibility for the post, unless public employments are made in accordance with the recruitment rules, the regularization cannot be sought for, as a matter of right.

6. At this juncture, the learned counsel for the petitioner would rely on the order of this Court in W.P.(MD)No.12308 of 2005, dated 30.04.2010, arising against the very same Management. However, the post therein is in respect of basic service, but now we are concerned with the Professor and so, the said order is of no relevance to the present facts of the case.

7. In this regard, it is relevant to refer the Judgment of the Apex Court in the case in *State of Rajasthan v. Dayalal*, reported in (2011) 2 SCC 429, wherein, it is stated that part-time employees are not entitled to seek regularization as they are not working against any sanctioned posts and that there cannot be a direction for absorption, regularization or permanent continuance of part-time temporary employees.



W.P(MD)No.26353 of 2019

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8. In the instant case also, the petitioner was temporarily appointed and since no post is sanctioned by the Government in the Sociology Department in the level of Professor, this Court is of the view that the question of regularizing the petitioner does not arise and accordingly, this Court does not find any infirmity in the impugned order.

9. In the result, the Writ Petition is dismissed. No costs.

04.11.2025

Index : Yes/No

NCC : Yes/No

Internet : Yes

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To

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W.P(MD)No.26353 of 2019

C.KUMARAPPAN, J.

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WP(MD)No.26353 of 2019

04.11.2025