IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

Writ Petition No.14010 of 2024

1. M.Robert
   S/o.Mani

2. Sivakumar,
   S/o.Karupaiyah

3. K.Desinghurajan,
   S/o.Kumaramani

..Petitioners

Vs

1. Union of India,
   represented by Secretary to Government,
   Finance Ministry, New Delhi - 110 001.

2. The Chief Commissioner of Income Tax,
   Mahatma Gandhi Road,
   Nungambakkam, Chennai - 600 034.

3. The Commissioner of Income Tax - I,
   No.4, William Road,
   Trichy - 620 001.

4. The Joint Commissioner of Income Tax,
   Range - I, No.4, Williams Road,
   Trichy - 620 001.

5. The Additional Commissioner of Income Tax,
   Range - I, No.4, Williams Road,
   Trichy - 620 001.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to order dated 30.11.2023 in OA/310/01206/2018 by the Central

Administrative Tribunal, Chennai Bench and quash the same and direct the respondents to confer the temporary status to the petitioners and regularize their service considering their long service of more than 2 to 9 years in the respondent department in the interest of justice.

For Petitioners	:	Mr.R.Amardeep
For Respondents	:	Mr.S.Janarthanam, SPCGSC [R1] Mr.V.Vijay Shankar, Standing Counsel [R2 to R5]

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ORDER

(Made by S.M.Subramaniam J.)

Admittedly, the writ petitioners were engaged as casual labourers by the respondent department and their services were ousted in the year 2002. 24 years have lapsed. Initially, the petitioners have filed O.A.No.358 of 2002 and not secured any relief. The petitioners filed several applications and finally, filed O.A.No.1206 of 2018. The Central Administrative Tribunal, Chennai Bench, relied on the judgment of the Hon'ble Supreme Court in the case of ***Union of India v. ILMO Devi and another* [*Civil Appeal No.5689-5690/2021*]**. In paragraph No.11 of the impugned order, the Tribunal has extracted the relevant portion in the order of the Supreme Court, which reads as follows:

> *"8.4 The observations made in paragraph 9 are on surmises and conjunctures. Even the observations made that they have worked continuously and for the whole day are also without any basis and for which there is no supporting evidence. In any case, the fact remains that the respondents served as part-time employees and were contingent paid staff. As observed above, there are no sanctioned posts in the Post Office in which the respondents were working, therefore, the directions issued by the High Court in the impugned*

judgment and order are not permissible in the judicial review under Article 226 of the Constitution. The High Court cannot, in exercise of the power under Article 226, issue a Mandamus to direct the Department to sanction and create the posts. The High Court, in exercise of the powers under Article 226 of the Constitution, also cannot direct the Government and/or the Department to formulate a particular regularization policy. Framing of any scheme is no function of the Court and is the sole prerogative of the Government. Even the creation and/or sanction of the posts is also the sole prerogative of the Government and the High Court, in exercise of the power under Article 226 of the Constitution, cannot issue Mandamus and/or direct to create and sanction the posts.

8.5 Even the regularization policy to regularize the services of the employees working on temporary status and/or casual labourers is a policy decision and in judicial review the Court cannot issue Mandamus and/or issue mandatory directions to do so. In the case of R.S. Bhonde and Ors. (supra), it is observed and held by this Court that the status of permanency cannot be granted when there is no post. It is further observed that mere continuance every year of seasonal work during the period when work was available does not constitute a permanent status unless there exists a post and regularization is done.

8.6 In the case of Daya Lal & Ors. (supra) in paragraph 12, it is observed and held as under:-

"12. We may at the outset refer to the following well settled principles relating to regularisation and parity in pay, relevant in the context of these appeals:

(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 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 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.

[See State of Karnataka v. Umadevi (3) [(2006) 4 SCC 1], M.Raja v. CEERI Educational Society [(2006) 12 SCC 636], S.C.Chandra v. State of Jharkhand [(2007) 8 SCC 279], Kurukshetra Central Coop. Bank Ltd. v. Mehar Chand [(2007) 15 SCC 680] and Official Liquidator v. Dayanand [(2008) 10 SCC 1.].

8.7 Thus, as per the law laid down by this Court in the aforesaid decisions part-time employees are not entitled to seek regularization as they are not working against any sanctioned post and there cannot be any permanent continuance of part-time temporary employees as held. Part-time temporary employees in a Government run institution cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work.

8.8 Applying the law laid down by this court in the aforesaid decisions, the directions issued by the High Court in the impugned judgment and order, more particularly, directions in paragraphs 22 and 23 are unsustainable and beyond the power of the judicial review of the High Court in exercise of the power under Article 226 of the Constitution. Even otherwise, it is required to be noted that in the present case, the Union of India/Department subsequently came out with a regularization policy dated 30.06.2014, which is absolutely in consonance with the law laid down by this Court in the case of Umadevi (supra), which does not apply to the part-time workers who do not work on the sanctioned post. As per the settled preposition of law, the regularization can be only as per the regularization policy declared by the State/Government and nobody can claim the regularization as a matter of right dehors the regularization policy. Therefore, in absence of any sanctioned post and considering the fact *that the respondents were serving as a contingent paid part-time Safai Karamcharies, even otherwise, they were not entitled for the benefit of regularization under the regularization policy dated 30.06.2014."*

2. In view of the above legal position and considering the fact that the petitioners were engaged as casual labourers and ousted in the year 2002 and not in service for the past about 24 years, they are not entitled for any relief. This Court does not find any infirmity in the order of the Central Administrative Tribunal, Chennai, dated 30.11.2023 passed in OA/310/01206/2018, which is impugned.

Accordingly, this writ petition is dismissed. No costs.

(S.M.S.,J.) (N.S.,J.)
09-06-2026

Index: Yes
Speaking order
Neutral Citation: Yes/No
gm
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S.M.SUBRAMANIAM, J.
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