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WA No. 2792 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-02-2026

CORAM

THE HONOURABLE Mr.JUSTICE S. M. SUBRAMANIAM

AND

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WA No. 2792 of 2022

AND

CMP NO. 22690 OF 2022

1. K. Velmurugan
S/o. Kandasamy,
Kadyampatti West Street,
Idaganasalai Post, Elam Pillai via
Sankagiri Taluk,
Salem District - 637 502.

Appellant(s)

Vs

1. The Principal Secretary to
Government
School Education Department,
Fort St. George, Chennai-600 009

2.The Director of Public Libraries,
Anna Salai, Chennai

3.The District Library Officer,
District Library Office,
Chera Rajan Salai, Asthampatty,
Salem -7.

Respondent(s)



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PRAYER

Writ Appeal filed under Clause 15 of the Letters Patent, praying to allow the Writ Appeal by setting aside the order made in WP No.15953/2019 dated 28.04.2022.

For Appellant(s): Mr.P.Ganesan
for Ms.S.Vinodha

For Respondent(s): Mr.K.H.Ravikumar
Government Advocate
for R1 to R3

JUDGMENT

(Judgment of the Court was made by S.M.Subramaniam J.)

The present intra-Court appeal has been instituted under Clause 15 of the Letters Patent to assail the writ order dated 28.04.2022 in WP.No.15953 of 2019.

2.Writ petitioner is the appellant before this Court. Admittedly, the appellant was appointed as part time Sweeper on 01.12.1999 on consolidated pay. The Government issued orders G.O.Ms.No.385, Finance (paycell) Department dated 01.10.2010 granting Special Time Scale of Pay to these part time employees, who have served three years in part time service. However, the appellant filed the writ petition seeking regularization of services. As far as the



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part time employees are concerned, they have not been selected and appointed as per the recruitment Rules applicable to the Department.

3.The learned counsel for the appellant would submit that though the appellant was engaged as part time Sweeper, he was made to perform many other works also.

4.The learned Government Advocate would oppose by stating that the part time employees are not entitled to seek regularization, as they are not working against any sanctioned post. These part time temporary sweepers are engaged by the department to perform certain limited works and they perform one hour duty by cleaning the library halls.

5.Since these part time employees are not appointed in a sanctioned post nor they were recruited as per the Recruitment Rules in force, they are entitled to be regularized to the sanctioned post in the time scale of pay. The issues raised in this appeal are no more *res integra*. Following the judgment of the Constitution Bench in *State of Karnataka v. Umadevi and others*¹, the Hon'ble Supreme Court has subsequently passed an order in the case of *Secretary to*

¹(2006) 4 SCC 1



Government School Education Department, Chennai Vs.R.Govindaswamy

and others². Relevant paragraphs are extracted hereunder:-

“8.

(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*

²(2014) 4 SCC 769



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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.”

(emphasis supplied)

6. In view of the above judgment, the writ order impugned stands confirmed and consequently, Writ Appeal is dismissed. No costs. Consequently, connected CMP is also closed.

(S.M.SUBRAMANIAM J.)(C.KUMARAPPAN J.)
06-02-2026

Index: Yes
Speaking order
Internet: Yes
Neutral Citation: Yes/No
kmi



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To

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S.M.SUBRAMANIAM J.
AND
C.KUMARAPPAN J.

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WA No.2792 of 2022
AND
CMP NO.22690 of 2022

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