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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-06-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WA No. 857 of 2026
and
C.M.P.No.9068 of 2026

The Commissioner,
Erode City Municipal Corporation,
Erode.

..Appellant(s)

Vs

1. Gowrishankar N
S/oO.K.Nagappan,
Computer Operator,
Erode City Municipal Corporation,
Erode- 638 112.
2. Principal Secretary to Government
Municipal Administration and Water Supplies
Department, Fort St. George,
Chennai-600009.

..Respondent(s)

Writ Appeal filed under Clause 15 of Letters Patent to set aside the
Order passed in WP.No.26755 of 2024 dated 14.08.2025.

For Appellant(s): Mr.Vijay Narayan, Advocate General,
assisted by Mr.M.Rajamathivanan

For Respondent(s): Mr.G.Bala for
M/S.G.Bala & Daisy for R1

JUDGMENT**(Judgment of the Court was delivered by S.M.Subramaniam J.)**

The present intra Court Appeal has been instituted under Article 15 of
the Letters Patent by the Commissioner, Erode City Municipal Corporation

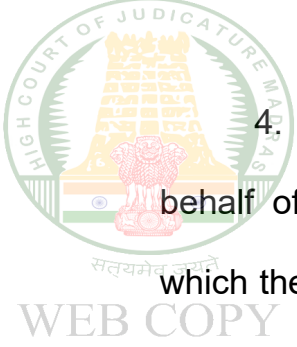


challenging the writ order dated 14.08.2025 in W.P.No.26755 of 2025.

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2. The facts in brief are that the 1st respondent/writ petitioner was appointed as a Computer Operator in Suramapatti, Grade-II Municipality, as consolidated employee. After constitution of Erode City Municipal Corporation the territorial jurisdiction was expanded by G.O.Ms.No.121, Municipal Administration and Water Supply Department dated 20.12.2012 and the adjoining area of 4 Grade-III Municipalities, 2 Town Panchayats and 5 Village Panchayats are merged with the Erode City Municipal Corporation. The 1st respondent filed a Writ of Mandamus seeking a direction to the respondent to regularise the service of the petitioner on completion of 3 years of service from the date of his initial appointment in the light of the Division Bench judgment passed in W.A.No.1615 of 2018 dated 23.11.2023, G.O.(2D)No.64, Municipal Administration and Water Supply Department dated 08.08.2019 and G.O.(2D) No.68 Municipal Administration and Water Supply Department dated 27.08.2019, with all consequential service and monetary benefits.

3. The Writ Court held that the judgment of the Division Bench dated 23.11.2023 in W.A.No.1615 of 2018 squarely applies to the case of the 1st respondent and allowed the writ petition in terms of the order in W.A.No.1615 of 2018. The facts relating to the present case are not recorded by the writ Court while passing the impugned writ order.



4. Mr. Vijay Narayan, the learned Advocate General appearing on behalf of the appellant would mainly contend that the decision, based on which the writ order impugned has been passed, is not applicable to the facts of the present case. Facts are not identical. Legal position has not been considered by the Writ Court. The post of Computer Operator has been eliminated by the Government vide G.O.Ms.No.152, Municipal Administration and Water Supply Department dated 20.10.2022. Therefore, the appellant is not in a position to implement the impugned order of the Writ Court to regularise the services of the 1st respondent in the post of Computer Operator on completion of his 3 years of service in the consolidated pay.

5. The learned Advocate General drew the attention of this Court with reference to the policy decision taken by the Government in G.O. (Standing)No.152, Municipal Administration and Water Supply Department dated 20.10.2022, wherein the post of Computer Operator has been eliminated as far as the Erode City Municipal Corporation, is concerned. He referred to G.O.(2D) No.64, Municipal Administration and Water Supply dated 18.08.2019, which relates to one Mr.M.Gajendran and 30 others, who filed the writ petition in W.P.No.17855 of 2014 and a Contempt Petition No.763 of 2019. The said order was passed in respect of 27 NMR daily wage workers, based on the writ order and under the threat of the contempt proceedings. Even then, the facts are distinguishable. These 27 petitioners whose services were brought under the regular establishment through G.O.(2D) No.64, cannot



be applied in respect of the 1st respondent who was engaged as a Computer Operator on consolidated pay. In G.O.(2D)No.68, Municipal Administration and Water Supply Department dated 27.08.2019, the case of Mr.M.Udyakumar and 20 others were considered, since they were engaged as NMR workers and therefore, the writ order is infirm on the ground of non-consideration of factual discrepancies between the present case and the writ appeal order which is relied on.

6. Mr.Bala, learned counsel appearing on behalf of the 1st respondent would submit that though the 1st respondent was engaged as consolidated pay Computer Operator, he is continuing in service for the past about 20 years. Considering the length of services rendered by him and taking into consideration the mitigating factors, the writ Court, relying on the order of the Division Bench, granted the benefit of regularisation. Several such temporary employees are brought under regular establishment in the time scale of pay. Therefore, the benefits extended to other similarly placed persons was granted to the 1st respondent, which cannot be termed as perverse.

7. This Court has considered the submissions made by the learned Advocate General, Mr.Vijay Nayaran as well as the learned counsel for the respondent, Mr.Bala.



8. The governing legal principles for appointment, regularisation and permanent absorption are well settled in catena of judgments by the Constitutional Courts across the country and the Hon'ble Apex Court of India.

9. The leading case in the matter of regularisation, permanent absorption and appointment is the judgment of the Constitutional Bench of the Hon'ble Supreme Court of India in the case of ***State of Karnataka vs. Uma Devi*** reported in ***2006(4) SCC 1***.¹

10. The Constitution Bench in unequivocal terms reiterated that all appointments to public posts are to be made strictly in accordance with the Service Rules in force. Illegal and irregular appointments cannot be validated nor be regularised in violation of the service rules applicable to the posts. Illegal and irregular appointments resulted in unconstitutionality, not only affecting the efficiency in public institution, but would result in infringement of the rights of lakhs and lakhs of meritorious youth, who all are longing to secure public employment through open competitive process. By encouraging the illegal and irregular appointments, rule of reservation is dispensed with. Merits are compromised. Efficient public administration is the constitutional mandate and through illegal and irregular appointment, efficiency in public administration, at no point of time, be achieved in our great nation. The importance of adhering to the mandates of equal opportunity in public

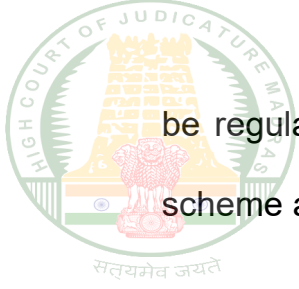
¹2006(4) SCC 1.



employment, unless materialised in all spheres, it would affect the development of our nation and this exactly is the reason why the Constitutional Bench in force emphasised that irregular and illegal appointment, at any circumstances, be regularised either by the Government or by the Courts.

11. The Hon'ble Supreme Court of India, at one point, issued a direction, in the case of ***State of Rajasthan vs. Dayalal*** reported in **2011(2) SCC 429²** considering the scope of regularisation of irregular appointments in all possible eventuality and laid down well settled principles relating to regularisation. The Hon'ble Apex Court ruling that "The High Courts in exercising the power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employee claim regularisation had been appointed in pursuance of the regular recruitment in accordance with the relevant rules in an Open Competitive process, against the sanctioned vacant post. The equality Clause contained in Article 14 and 16 of the Constitution of India 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 also go to the root of the process, can

²2011(2) SCC 429



be regularized, backdoor entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidate, cannot be regularized.

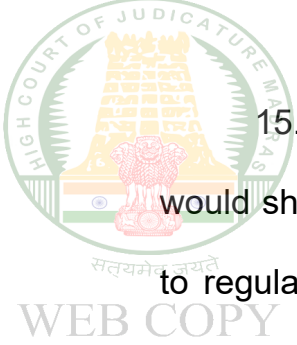
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12. The Constitution Bench in ***Uma Devi's case*** cited supra, paragraph No. 54 clarified that those decisions which run counter to the principles settled in ***Uma Devi's case***, for which, direction running counter to what the Constitutional Court held will stand denuded of their status as precedents. The Constitutional Bench judgment is the law in force as on today. Therefore, any judgment passed by the Courts across the country running counter to the principles laid down in ***Uma Devi's case*** would denude to lose their status as precedent and such judgment are to be strictly confined to the facts in that particular case and the said judgment cannot be followed as precedent. Therefore, while the High Court relying on the judgment of the Division Bench of the same High Court or different High Court in the matter of regularisation and permanent absorption, the facts to the case to be considered for grant of relief relating to regularisation or permanent absorption.

13. In the present case, the impugned writ order does not deal with any of the facts relating to the 1st respondent or the facts in the case of the ***Commissioner Corporation of Chennai vs. Principal Secretary to Government and others*** in W.A.No.1615/2018 dated 23.11.2023



14. Let us now consider the facts of the present case as well as the Government policy relating to the post of Computer Operator in Erode City Municipal Corporation. The 1st respondent was engaged as Computer Operator on consolidated pay. He is continuing in the said post for about 20 years as consolidated pay employee. The Government issued G.O.Ms.No.64 dated 08.08.2019 wherein 27 NMR daily wage workers are brought under regular establishment. A reading of the said G.O. would show that the Government before passing the said G.O.(2D).No.64, examined the proposal and rejected the claim for regularisation vide letter dated 08.08.2019, since all the workers are Nominal Muster Roll employees (NMR) and they were not appointed as per the procedures laid down in the rules in force. Therefore, the Government took a decision not to regularise the service of NMRs daily wage workers. However, they secured an order from the High Court in a writ petition. Then a Contempt Petition was filed. When the Contempt Petition was filed, the Government, in order to avoid contempt of court, recalled the Government letter dated 08.01.2019 in respect of those 27 writ petitioners alone, whose claim for regularisation was rejected and permitted the Commissioner, Greater Chennai Corporation, to bring the 27 persons into regular time scale of pay at the entry level vacant posts in Class IV (Sanitary workers) in Greater Chennai Corporation from the date of issue of orders, as a special case.



15. A close reading of the Government Order issued in G.O.(2D) 64 would show that it is not an administrative decision taken by the Government to regularise the services of these NMRs daily wage workers. Their service are regularised under the threat of the contempt proceedings. Their claim was initially rejected by the Government in view of the fact that SLP filed was dismissed at the admission stage. Thus, the said G.O. which is relied on by the 1st respondent for granting the relief in the writ petition is unacceptable and based on the said G.O, the relief of regularisation ought not to have been granted. Thereafter, the Government issued G.O.(2D) No.68 dated 27.08.2019 and an amendment was issued. The amendment states, the expression “from the date of issue of orders”, the expression “from the date of completion of 3 years of service notionally and with all pensionary benefits from the date of issue of the Government Order”, has been substituted.

16. Pertinently, the policy decision was taken by G.O.Ms.152 dated 20.10.2022 eliminated the post of Computer Operator from the Erode City Municipal Corporation. Therefore, there is no scope of regularisation of services of the 1st respondent in the post of Computer Operator. No employee can be regularised in a non-existing post and the only alternate is that, such employee, who is engaged on consolidated pay may be considered for absorption in any other suitable posts if the selection process has been undertaken by the competent authorities. No doubt, during the selection process, temporary daily wage consolidated employees may be given due



weightage by award of marks. Some priority may be provided to these employees, who served in the Corporation for a considerable length of time.

However, the High Court, in exercise of power of judicial review issuing a direction to regularise in the government post would result in causing infringement of the right of meritorious candidate who all are waiting to secure public employment through selection process and in accordance with the service rules applicable.

17. The learned counsel for the 1st respondent relied on the judgment of the Division Bench at Madurai Bench of Madras High Court in W.A. (MD)Nos.897 & 898 of 2019 dated 15.12.2025 The said case is to be confined with reference to the facts of the said case . That apart, direction given to regularise the service is running counter to the ruling of the Hon'ble Supreme Court in the case of **State of Rajasthan vs. Dayalal** cited supra. More so, in view of the ruling of the Constitutional Bench in paragraph No.54 of **Uma Devi's case** cited supra, the said judgment has denuded to lose its status as precedent. The High Court, in such circumstances, may consider the facts and direct the authorities competent, to consider the case by awarding weight age of marks, if necessary by grant of age relaxation, to the temporary employees rendering long service in the Department, Corporation and Government institutions. But issuing a direction to regularise services undoubtedly, would result in larger repercussions in matter of public appointments in accordance



with service rules and would fall beyond the realm of powers of the judicial review of High Court under Article 226 of the Constitution of India.

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18. For the reasons stated in the aforementioned paragraphs, this Court has no hesitation in arriving at a conclusion that the writ order, which is passed without considering the relevant facts available on record is infirm. Accordingly, the order dated 14.08.2025 passed by the writ Court is set aside and the Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

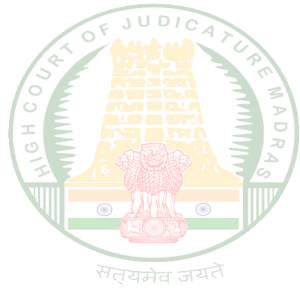
(S.M.S.,J.) (N.S.,J.)
11-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

VSI

To

1. Gowrishankar N
S/O.K.Nagappan,
Computer Operator,
Erode City Municipal Corporation,
Erode- 638 112.
2. Principal Secretary to Government
Municipal Administration and Water Supplies
Department, Fort St. George,
Chennai-600009.



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**S.M.SUBRAMANIAM, J.
and
N.SENTHILKUMAR, J.**

vsi

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