

**Central Administrative Tribunal
Madras Bench**

OA/310/01174/2013

Dated the 27th day of June Two Thousand Nineteen

P R E S E N T

Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)

S.Udhaya Shree,
W/o Vaithiyanathan,
No.172, IV Main Road,
Mahaveer Nagar,
Lawspet,
Puducherry. .. Applicant
By Advocate **M/s.V.Ajayakumar**

Vs.

1. Union of India, rep by the
Government of Puducherry through the
Secretary to Government of Education,
Chief Secretariat, Puducherry.
2. The Director of Higher Education,
Perunthalaiver Kamarajar Centenary
Education Complex, Anna Nagar,
Puducherry. .. Respondents
By Advocate **Mr.R.Syed Mustafa**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“To direct the respondents to regularly absorb the applicant on regular basis in the post of Lecturer (Assistant Professor) in Computer Science with effect from the date on which the other persons were appointed on regular basis, on the basis of the decision in the Writ Petition No.3934/2004 with all other consequential benefits including arrears of wages and other benefits and to pass such other or further orders in the interest of justice and thus render justice.”

2. The applicant's case is that the applicant was appointed as Part-time Lecturer in Computer Science and she joined the duty on 21.7.1992. Thereafter her services was made on hourly basis w.e.f. 05.9.1996. Subsequently the applicant was transferred to Avvaiyar Government College for Women, Karaikal. She was compelled to join in that station and she worked there till 04.7.05. In the meanwhile, the applicant and others had filed OA 437/2002 seeking absorption on regular basis before CAT, Chennai Bench. The Chennai Bench dismissed the above OA. Aggrieved by the above order, the applicants filed WP 3934/2004 and the Hon'ble High Court has disposed off the WP 3934/04 and Batch of cases allowing the WP. The Hon'ble High Court has ordered to regularize the services of the petitioner and others who has filed OA 437/02 on 28.11.06. Eventhough, the applicant has sought for regularization, the respondents had not acceded to it. According to the applicant, while the WP was pending she had sought for a transfer to Puducherry. It was not granted by the respondents. Accordingly, she left the job on 05.7.05. Subsequently the WP was

allowed on 28.11.06. The applicant's case is that, about 135 Lecturers were regularized by the respondents on the basis of the order of the Hon'ble High Court. According to her, 24 persons who had already left the service on 2005 were also given regularization by the respondents on the basis of WP order. So, she prays for issuing a direction to regularize her in the post of Lecturer in Computer Science with effect from the date of order of the WP 3934/04.

3. The respondents filed a detailed reply stating that the applicant has no claim to get regularization as per order of the WP 3934/04 dated 28.11.06. According to them, the applicant had left the job from 05.7.05 onwards. According to them, only 123 casual Lecturers who were in service at the time of the order was regularized against the vacancies in the colleges under the respondents. According to them, the applicant had left her engagement and they were unable to give any appointment to her. There is no provision for giving a fresh appointment as per order of the Hon'ble High Court. The applicant had voluntarily left the service even without giving notice to the respondents and this has created difficulty for completing the academic year. Immediately after resignation, the respondents had approached the Directorate of Higher and Technical Education seeking the service of one Lecturer qualified in Computer Science for completing the academic year. The applicant in this case had given a representation seeking regularization and the respondents had replied their inability to accommodate her as per letter dated 01.3.07 which is marked as Annexure R7. So, according to the respondents, there is no merit in the OA.

4. We have anxiously perused the pleadings and arguments of the counsel

appearing on both sides. The only point for consideration is whether the applicant is entitled to get the benefit of the order of the Hon'ble High Court for regularization as per WP 3934/04 dated 28.11.06.

5. The respondents in this case had admitted the initial appointment of the applicant as casual Lecturers and her continuation in the post till the year 2005. According to the respondents, the applicant has left the service without waiting for the order in the WP and she had resigned the job even without giving notice to respondents which is expected from her. Subsequently after 2 years she had approached the authorities for getting employment. This clearly go to show that the applicant was not in employment of the respondents when the order for regularization came. The respondents had given regularization for about 123 causal Lecturers who were in service on the date of order of the Hon'ble High Court. Since the applicant was not in service, they could not regularize her in the post. The applicant has not approached the Tribunal immediately on receipt of the order of the Hon'ble High Court also. The applicant has filed OA only in the year 2013 i.e. after 7 years from the date of the order of the Hon'ble High Court. There is considerable lapse and delay. On going through the resignation letter produced as Annexure R6, it can be seen that the applicant has clearly stated in her letter that she does not wish to continue her service any more in the college at Karaikal and requested the authority to treat the letter as her resignation and terminate her service from the date of application i.e. 04.7.05. So, it is clear that the applicant was not in service of the respondents and she is not entitled to get regularization as ordered by the Hon'ble

High Court in WP 3934/04. The applicant in this case has not even produced the order of the Hon'ble High Court for perusal in this case. Eventhough the case was adjourned two or three time for production of various decisions, nothing was produced by the applicant in this case. There is also no material produced to show that people who left the job were also appointed by the respondents as alleged. So, we find that there is absolutely no merit in the OA and it is liable to be dismissed.

6. In the result, the OA will stand dismissed. No order as to costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

27.06.2019

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