

**IN THE GAUHATI HIGH COURT**

[THE HIGH COURT OF ASSAM: NAGALAND: MIZORAM AND  
ARUNACHAL PRADESH]

**ITANAGAR PERMANENT BENCH****WP(c) 223 (AP) of 2011**

Md. Nobil Ali Ahmed

Son of Late Rahamsa Ali

Casual Works inspector

Irrigation and Flood Control Sub-Division Deomali

District Tirap, Arunachal Pradesh.

***.....Petitioner***

**– Versus –**

1. The State of Arunachal Pradesh represented by the Secretary to the Govt. of Arunachal Pradesh, Irrigation and Flood control Department, Govt of Arunachal Pradesh, Itanagar.
2. The Chief Engineer, Irrigation and Flood Control Department, Govt of Arunachal Pradesh, Itanagar.
3. The Superintendent Engineer, Irrigation and Flood Control Department, Govt of Arunachal Pradesh, Namsai.
4. The Executive Engineer, Irrigation and Flood Control Department, Govt of Arunachal Pradesh, Deomali.

***..... Respondents***

Advocates for the petitioner: Mr. C. Baruah, Sr. Advocate

Mr. U. J. Saikia

Mr. P. Sarma

Mr. P. Taffo

Mr. T. Gyadi

Ms. N. Danggen

Ms. J. Doji

Advocate for the Respondents: Ms. Geeta Deka, Sr. Govt. Advocate

**B E F O R E**

**HON'BLE JUSTICE MRS. RUMI KUMARI PHUKAN**

Date of hearing : 10.03.2015

Date of Judgment & Order : 20.03.2015

**JUDGMENT & ORDER [CAV]**

Heard Mr. P. Taffo, Learned Counsel for the petitioner. Also heard Ms. G. Deka, learned Senior Govt. Advocate appearing on behalf of the state respondents.

2. The brief facts of the case of the petitioner is that, vide order No. TRN/T/11/81/27 dated 18-07-1981 issued by the Executive Engineer, Rural Works Department, Khonsa, he was appointed as a Work Charged Assistant Inspector of works in the said Department under the Govt. of Arunachal Pradesh. He joined his duties on 20-07-1981. Though in the appointment order, it was mentioned that the appointment of the petitioner in the said post, was for a period of 3 months only, he continued to serve in that capacity continuously without any break and also availed Government accommodation. Further, in the same capacity, he was transferred to other places of the State of Arunachal Pradesh and as such, for all practical purposes, he was in continuous services and he was under the impression that he would be regularly absorbed in the said post.

The further case of the petitioner is that after a gap of 6(six) years, vide order No. DWR/SC-1/87-88 dated 12.11.87 issued by the Assistant Engineer, Rural Works Division, Deomali, he was purportedly re-appointed the petitioner and 6(six) other similarly situated persons. It is contended by the petitioner that he was earlier appointed by the Executive Engineer, Rural Works Division, Changlang, Arunachal Pradesh and his services were never terminated and as such, the 2<sup>nd</sup> appointment letter dated 12.11.87 so issued by the Assistant Engineer, Rural Works Sub-Division, Deomali, is, in fact, a subordinate officer, to the Executive Engineer. However, vide order No.DRW/WC-I/87-88 issued by the Assistant Engineer, Rural Works Department, Deomali, he was discharged from service w.e.f. 01.07.1988. Being highly aggrieved, he filed a writ petition viz. WP(c)877/1990 and vide order dated 16.05.1990, the said respondent was directed to take back the petitioner in duty within one week. He, thereafter, submitted a copy of the Court's order before the Assistant Engineer, Irrigation and Flood Control Sub-Division, Deomali, on 28.05.1990, along with his joining report, which was duly received by the office. Despite his reinstatement, the authority threatened him of eviction from his room where he used to reside. Situated thus, vide another writ petition, this Court directed the respondents to allow the petitioner to remain in the room until further order. This Court further held that since the order dated 16.05.1990 was not complied with within the period laid down, the respondents should explain as to why a contempt proceeding should not be initiated against them. In Civil Rule No. 877/1990, the respondents, meanwhile, filed an affidavit wherein it was stated that the Deomali Division of the Rural Work's Department was still ready to engage the petitioner as Casual Work Charged staff against any sanctioned scheme.

**3.** Mr. Taffo, learned counsel for the petitioner, has submitted that in the mean time, the Rural Works Department was bifurcated into 3(three) departments, namely, Rural Works Department; Irrigation and Flood Control Department; and Public Health & Engineering Department and the Deomali Sub-Division of Rural Works Department was declared as Irrigation and Flood Control Sub-Division.

**4.** Learned counsel for the petitioner has also submitted that after the order dated 23.07.92 passed by this Hon'ble Court the petitioner was re-instated in service under the said Deomali Sub-Division of RWD. Since the RWD was bifurcated into 3(three) Departments and Deomali Sub-Division was brought under Irrigation and Flood Control Department, as such, a question was raised by the Irrigation and Flood Control Deptt. as to whether the petitioner should be absorbed by the Irrigation and Flood Control Division, Deomali, though the petitioner was originally working in the RWD. As such, the Assistant Engineer, Irrigation and Flood Control Sub-Division, Deomali vide letter dated 15.11.1995 requested the Assistant Engineer, RWD Sub-Division, Tirap District, Khonsa, for absorbing the petitioner and accordingly, the petitioner appeared before the Assistant Engineer at Khonsa, but he was not allowed to join the duty. Thereafter, the Assistant Engineer, Khonsa vide letter dated 22.11.1995 informed the Assistant Engineer, Irrigation and Flood Control Sub-Division, Deomali, with reference to letter dated 15.11.1995 stating, *inter alia*, that as the matter was pending before this Court, the acceptance of service of the petitioner would be difficult by him and, as such, he requested the said Assistant Engineer, to absorb the petitioner in Irrigation and Flood Control Department. When the petitioner was not allowed to join by the Assistant Engineer, Rural Work's Division, Khonsa, he reported the matter to

the Assistant Engineer, Deomali, and the said Assistant Engineer vide letter dated 16.12.1995 requested the Assistant Engineer, Khonsa, to allow the petitioner to join. The petitioner accordingly submitted his joining report before the Assistant Engineer, Khonsa, but the same was refused. With reference to the letter dated 16.12.1995, the Assistant Engineer, RWD, Khonsa, issued another letter vide dated 19.01.1996 to the Assistant Engineer, Irrigation and Flood Control Sub-Division, Deomali, stating that since the petitioner was a Casual worker of the Deomali Division, his services had to be accepted by the Deomali Division and since the record of Civil Rule No. 877/90 of the petitioner is with Khonsa Division which has since been declared as Public Health Engineering Division. There was no point to accept the petitioner in his Division and that there were clear instructions for not accepting the petitioner in his Division. Accordingly, the joining report of the petitioner was cancelled.

**5.** In the meantime, Civil Rule No. 877/90 pending before this Hon'ble Court while disposing of the same *inter alia* held that the respondents would consider the case of the petitioner and appoint him to the post for which he is eligible within a period of two months.

**6.** The petitioner has contended that after delivery of the aforesaid order dated 06.06.1996, the petitioner was not allowed to join in any department and therefore, he submitted a number of representation to the Secretary, Rural Work's Department, Chief Engineer, Rural Works Department, Superintending Engineer, Rural Work's Division, Changlang to take him back in service, but without any avail. As such, the petitioner was constrained to approach this Hon'ble Court again by filing Civil Rule No. 2243/97. After construction of this Bench at Naharlagun the matter was transferred to Naharlagun and was re-numbered as WP(c) No. 40 (AP)/2000, which was disposed of by this Court,

vide order dated 12.01.2001, with the specific direction that the Secretary to the Govt. of Arunachal Pradesh, Irrigation and Flood Control Department, Itanagar; Executive Engineer, RWD, Changlang; and the Assistant Engineer Irrigation and Flood Control Department, Deomali; shall prepare a scheme on rational basis for absorption and regularization of the services of the writ petitioner and other similarly situated work-charged casual workers, taking into account, the length of their services with the vacancy position of the related post(s) which may also be created by the respondents. If there is no vacancy and to ventilate the grievances of the petitioner as well as other similarly situated person, the respondents were also directed to take back the petitioner in service as work-charged employee or casual labourer within a period of 3 weeks from the date of receipt of a certified copy of the order dated 12.01.2001 and that the petitioner shall be allowed to work under the Irrigation and Flood Control Department. In pursuant to the said judgment and order, the petitioner was appointed as Casual Work Inspector for a period of 89 days vide Memo No. DIFC/C/1/2001-02/57 dated 26.02.2001. The petitioner has contended that though in the Court's order dated 12.01.2001, there is a specific direction to frame a scheme for regularization of his services along with similarly situated persons, but the same was not done by the respondents. Hence, he submitted a representation to the respondent No. 2 viz. Chief Engineer, IFCD, Itanagar, on 13.09.2001, to do the needful. However, till date, nothing has been done in this regard.

**7.** The petitioner has further contended that even though there is a specific direction by this Hon'ble Court to regularize the service of the petitioner by framing a scheme but the same has not been done till dated whereas other similarly situated persons who were appointed on casual basis even after the

petitioner, their services have been regularized by the respondents. In this connection, the services of one Sri Tuneswar Gogoi who was appointed on 01.11.1982 after the petitioner, has also been regularized vide Memo No. IFC/1/304/98/9616-61 dated 24.02.1999 by the said respondent No. 2. Thereafter, with a reasonable apprehension in his mind that his name would not be included in the list since he has been shown to be appointed on 26.02.2001 after this Court's order dated 12.01.2001, the petitioner approached this Court again for a specific direction for regularization of his service along with other similarly situated persons as he had completed more than 15 years of service since he was initially appointed on 18.07.1981. Vide order dated 13.11.2003, this Court disposed of the writ petition viz. WP(c) 54(AP)2003 with a direction to consider the case of the petitioner in the light of the relevant scheme for regularization of contingency as well as casual workers in the Department of Irrigation and Flood Control, Govt. of Arunachal Pradesh and to complete the whole exercise within a period of 4 months.

Since no action was initiated by the State Respondents to complete the process of regularization of the petitioner within 4 months, as such, on 05.10.2005, he submitted another application before the Chief Engineer, IFCD, Itanagar, regarding regularization of his service.

**8.** Recently, the petitioner came to know that on 08.12.2005, the Executive Engineer IFCD, Deomali, sent a seniority list of W/C(T) and Casual Employees to the Chief Engineer IFCD, Itanagar, to take necessary action and in the said list, the name of the petitioner is shown at Serial No. 1. But to the utter surprise of the petitioner, some of the workers whose names were shown below the petitioner, in the list, were regularized but his case was not considered till date. Further, one Sri. N.P. Pandey, who was at Serial No. 3 was

also given regular scale of pay. Going through such utter discrimination, the petitioner has moved this petition praying for a direction to the respondents to regularize the services of the petitioner in terms of the scheme framed by the respondents in pursuant to Memo dated 21.08.2002 by the respondent No. 2, strictly, in order of seniority list, as forwarded by the respondent No. 4, in 08.12.2005.

**9.** Referring to the counter affidavit filed by the State Respondents, Ms. Deka, learned Senior Government Advocate, has submitted that the petitioner was initially appointed as work charge assistant Inspector of works at a consolidated wage of Rs. 400/- for a period of 3 months and as such, the said appointment order do not give a right to the petitioner to claim for regularization. The writ petitioner was appointed from time to time against sanctioned schemes on a temporary basis subject to availability of the fund in the Department. The scheme against which the petitioner was initially appointed was completed within three months and thereafter he remained idle. Later on, the petitioner was re-engaged against another scheme where fund was made available, which goes to show that the service of the petitioner had to be placed from one scheme to another scheme i.e. from one place to another place and the same cannot be therefore, termed as a transfer order like that of any Government employee. The fact that he was provided with Government accommodation cannot made him presume that he was regularly absorbed.

**10.** The State Respondents have further contended that due to overdraft in the state and consequent upon paucity of fund, all the supervisory staff and casual workers/labourers under Rural Works Sub-Division, Deomali, were discharged with effect from 01.07.1988 and all works were suspended for



indefinite period and accordingly, directed to vacate the Government quarters to accommodate the regular staffs. In the meantime, the Rural Works Department has been bifurcated into Public Health Engineering Department, Irrigation and Flood Control Department and Rural Works Department and the writ petitioner submitted his joining report without having re-engagement order from the competent Authority. It has been contended that the petitioner belongs to Khonsa Division which was under the control of Public Engineering Department and his joining report is to be accepted by the said Sub-Division and hence his joining report was not accepted. It has been further contended that the Hon'ble Court while disposing of the writ petition has held that the petitioner cannot claim for regularization as of right. However, the respondent authorities were directed to take back the petitioner in service as work-charged employee and accordingly, he was taken back in service in compliance to this Court's order. The further contention is that with regard to the scheme as directed by the Hon'ble Court in the above mentioned writ petition, all Engineering Departments under the Government of Arunachal Pradesh are following the Central Public Works Department system of working and as such, absorption and regularization of casual and work-charged staffs are governed by the Central Public Works Department Manual Vol.-III (works-charged Establishment). Therefore, the absorption and regularization of the petitioner is rest on availability of vacancy and selection in the basis of the seniority-cum-fitness as per existing relevant Recruitment Rules. That the question of regularization of one Sri Tuleswar Gogoi has been referred to, would go to show that his case was considered by Departmental Promotion Committee(DPC) on the basis of performance and seniority-cum-fitness on 24.02.1999 which was prior to the judgement passed by the Hon'ble Court, as

such, no case has been taken-up for regularization and hence, his case cannot be considered for regularization since he was not in the Department with effect from 01.07.1988 to 2001. The State Respondents have contended that the seniority-wise list of casual and work-charged staff under the Irrigation and Flood Control Department, Deomali Division, forwarded by the Executive Engineer, Deomali, was a tentative seniority list of Deomali Division only and not a final seniority list. The consolidated seniority list of casual and work-charged staff of the Irrigation and Flood Control Department is prepared based on the list submitted from all the Circles/Divisions. As per the tentative seniority list of casual and work-charged(T) employees, under the Department, as on 31.03.2006, the seniority position of the petitioner is at Sl. No. 908. The State Respondents have further contended that no persons including Sri N. P. Pandey who was/were junior to the petitioner, was/were regularized, as claimed by the petitioner. The petitioner being at Sl. No. 908, cannot claim regularization, as such. The State Respondents has submitted that the records would show that he has not been able to make-out a case for regularization in the facts and circumstances of the case and the instant petition deserves to be dismissed.

**11.** The petitioner has filed an affidavit-in-reply to the counter affidavit of the State Respondents, wherein it has been categorically stated that the petitioner could obtain a copy of the aforesaid seniority list allegedly prepared by the Department, but, till date, the same has not been circulated to any of the Divisions and everyone is unknown about the same. Further, the aforesaid seniority list is prepared whimsically without basing on the tentative list submitted by the Divisions. The date of appointment of the petitioner, in this case, is 20.07.1981. Had the Department concerned not taken the year 2006 as the date of appointment of the petitioner, he would not be getting the scale

that he is getting now. It may be mentioned that the Finance Department vide order dated 08.10.2010, has circulated the minimum wages that are entitled to casual workers. 0-5 years = Rs. 3500/-; 6-10 years = Rs. 4,000/-; 10-15 years = Rs. 5000/-; and above 15 years = Rs. 6000/-. From the aforesaid tentative list, if the date of appointment of the petitioner is taken as 2006, as alleged by the respondent, he would be getting Rs. 3,500/- in the year 2010 as he would not have completed 5 years by then. Contrarily, the respondent authority has been paying the amount of Rs. 6,000/- to the petitioner since 2010 as per the schedule, reflected above, as he had completed more than 15 years of service taking into account his date of appointment as 20.07.1981. This is evident from the amount deposited by the said Department in the Bank Account of the petitioner. From the aforesaid facts, it is clearly evident that the date of appointment of petitioner has been accepted as 1981 all through the service career of the petitioner, by the said Department and the same cannot be washed off, by swearing an affidavit.

**12.** The petitioner has submitted that the Department and its officials have been very biased towards the petitioner and he has been deprived of being regularized or given the status of work-charged all through though those employees who were far juniors than the petitioner, have been given the work-charged status and the process for others, is also going on. The petitioner has filed an RTI before the appropriate authority but in the reply to the said RTI, complete information is not furnished. The petitioner has further contended in the said affidavit that he could lay his hands on some of the work-charged appointments that have been made recently by the respondent authorities. Considering all the above aspects of the matter, the petitioner has prayed that

his service may be regularized at the fag end of his service career so that he can at least enjoy the pensionary benefits since his juniors are given the benefit of work-charge status and its consequential benefits.

**13.** By pointing towards the salary so deposited in favour of the petitioner by the concerned Department, it has been contended that the rate of wages, which is eligible to the casual workers above 15 years has been given to him as salary and which also support his contention that he has completed more than 15 years of service since the date of appointment as casual worker. The contention so raised by the petitioner that he was in continuous service in the capacity of casual worker since 18/20-07-2981, is itself not maintainable due to lack of required supporting documents because his own document, so annexed by him, does not support that he was in continuous service since the date of appointment as casual worker. First annexure-I, by which, he was appointed as work charged Assistant Inspector of Works in a fixed pay of Rs.400/- only for 3 months vide order dated 18-07-1981, which is to be terminated without further notice. The next annexure-II shows that he was re-appointed as W/C staff under the Rural Works Sub-Division, Deomali vide order dated 12-11-1987. By annexure-III, the petitioner was discharged from the said office of Assistant Engineer, RWD Sub-Division with effect from 01-07-1988 due to paucity of fund. So, after discharge of the petitioner from service, he came before this Court by a Civil Rule No.877 of 1990, wherein, the Hon'ble High Court directed the respondent authorities to take back the petitioner by way of interim order dated 16-05-1990 but he could not be accommodated in the said department as his earlier department was bifurcated into three different divisions and ultimately, he was allowed to join in the Irrigation and Flood Control Department in the year 2001.

**14.** Even after disposal of the said Civil Rule No. 877 of 1990 with a direction to post him in a suitable post as he was not appointed/not regularized, he approached the Court again by filing a writ petition being WP(C) 40 (AP) 2000 and this Court while disposing the said writ petition vide order dated 12-01-2001, directed the State of Arunachal Pradesh to prepare a scheme on rational basis for absorption and regularisation of the services of the writ petitioner and other work-charged casual workers similarly situated with the petitioner taking into account of their length of services (earlier services) with the vacancy position of the related post/posts which also may be created by the respondents, if there is no vacancy and to ventilate the grievance of the writ petitioner as well as the other employees similarly situated with the writ petitioner as early as possible. On the basis of the said order, the petitioner was only appointed as casual work inspector for a period of 89 days. Now, the grievance of the petitioner is that the respondent authorities have not yet regularised the services of the petitioner in spite of the specific direction made by this Court whereas the other casual workers have been regularised by the respondent authorities.

**15.** In terms of the aforesaid direction passed by this Court in WP(C) 40 (AP) 2000, the respondent authority has prepared the seniority list of the casual workers. But according to the petitioner, his seniority should be shown since the date of his initial appointment i.e. 18-07-1981, instead of 12-01-2001 as mentioned in the seniority list prepared by the respondent authority. It has been submitted by the respondent authority vide annexure-VIII in their affidavit, wherefrom the remarks column, it has been shown that the petitioner was joined in service as Assistant W.I. (I/C Casual) post in the RWD Department with effect from 20-07-1981. He was absent in service since 20-

09-1996 to 27-02-2001, for which, he could not be treated as in continuous service.

**16.** There is absolutely no substance in the submissions of the learned counsel for the petitioner that the petitioner was in continuous service with effect from his initiate date of joining as Work Charged Assistant Inspector of Works i.e. from 18-07-1981. The contention of the learned State Counsel that the gap/absence period of the petitioner cannot be regularised, which is found to be improper, in view of the materials on record. From the materials available on records(as per his own pleaded case), it is also apparent that after discharge of the petitioner from service with effect from 30-06-1988, he was re-appointed/engaged in the post of casual W.I, for a few months in terms of the Court order, which again terminated, automatically, then, where is the scope to hold continuity of service.

**17.** In view of the materials available on record and documents annexed in the petition, the prayer of the petitioner is not justified to hold that his date of joining should be taken from the date of his initial appointment as casual work charged Assistant Inspector of Works. Regarding prayer of the petitioner for regularisation of his service, itself not maintainable in view of vary nature of his appointment. His employment in the respondent's department was on casual basis. However, this Court already held while disposing WP(C) 40 (AP) 2000, which reads as follows:-

**"This Court require the respondents particularly, The respondent Nos. 1 to 4 namely, (1) The State of Arunachal Pradesh, (2) The Secretary to the Sate of Arunachal Pradesh, Irrigation & Flood control Department, Itanagar, (3) The Executive Engineer, Rural Works Division, Changlang, Arunachal Pradesh, and (4) The Assistant Engineer, Irrigation**

**and Flood Sub-Division, Deomali, Tirap District, Arunachal Pradesh to prepare the scheme of rational basis for absorption and regularisation of the services of the writ petitioner and other work-charged casual workers similarly situated with the petitioner taking into account of their length of services (earlier services) with the vacancy position of the related post/posts which also may be created by the respondents if there is no vacancy and to the grievance of the writ petitioner as well as other employees similarly situated with the writ petitioner as early as possible.”**

**18.** Similar was the direction made by this Court in WP(C) 54 (AP)2003, wherein, the Court directed the respondent authority to examine and consider the case of the writ petitioner in the light of the relevant Scheme for regularization of contingency as well as casual workers in the Department of Irrigation and Flood Control, Govt. of Arunachal Pradesh and if upon such examination and consideration, the petitioner is found entitled to regularization of his service, then, his service shall be regularised in accordance with the relevant Scheme and the law contained in that behalf.

**19.** The contention of the respondent authority that the consolidated seniority list of the casual workers/employees/staff under the Irrigation and Flood Control Department, Deomali Division has been prepared, wherein the seniority position of the petitioner is 908, so, his claim for regularisation cannot be considered as the petitioner not yet come under the zone of consideration in view of the fact that so many senior persons are above him claiming for regularisation and the petitioner is much junior than the others. It is also noted that the petitioner has not controverted the fact narrated in the affidavit-in-opposition. So, the simple assertion of the petitioner that his seniority should be counted from the date of his initial appointment, claiming for regularisation, is not at all eligible.

**20.** In the case of ***State of Karnataka V. Umadevi***, reported in **(2006) 4 SCC 1**, Hon'ble Apex Court in para 6 and 8 held as under:

**“There is no fundamental right in those who have been employed on daily wages or temporarily or on contractual basis, to claim that they have a right to be absorbed in service. As has been held by this Court, they cannot be said to be holders of a post, since, a regular appointment could be made only by making appointments consistent with the requirements of Articles 14 and 16 of the Constitution. The right to be treated equally with the other employees employed on daily wages, cannot be extended to a claim for equal treatment with those who were regularly employed. That would be treating unequals as equals. It cannot also be relied on to claim a right to be absorbed in service even though they have never been selected in terms of the relevant recruitment rules.”**

**21.** In the case of **State of Rajasthan v. Daya Lal, reported in (2001)2 SCC 429**, has considered the scope of regularisation of irregular or part-time appointments in all possible eventualities and laid down well-settled principles relating to regularisation and partly in pay relevant in the context of the issues involved therein.

(i) The High Courts, in exercising the Power under Article 226 of the Constitution will not issue directions for regularization, absorption or permanent continuance, unless the employees claiming regularization 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 regularized, back door entries, appointments contrary to the constitutional



scheme and/or appointment of ineligible candidates cannot be regularized.

(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 regularization, *if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularization* in the absence of a legal right.

(iii) Even where a scheme is formulated for regularization 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 of 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 regularization* as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularization 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.

**22.** Recently in the case of Secretary **to Government School Education Department, Chennai Vs. R. Govindaswamy and others**, reported in **(2014) 4 SCC 769**, the position has been reiterated by the Hon'ble Supreme Court in the following words.

“... 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’ which has been proscribed by the Constitution Bench in *Umadevi (3)*, 2006 4 SCC 1 – 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* – Thus, held, respondent employees were not entitled to regularisation even when they had put in long service because they were not working against sanctioned posts - Sympathy and sentiment cannot be grounds for regularization of services in the absence of legal right...”

**23.** In view of the legal pronouncement, the case of the petitioner deserves no consideration in the absence of any legally enforceable right. He is not yet eligible for regularisation of his service as his seniority position is 908 amongst the casual workers in the said Department. The respondent authority has to go ahead with the Scheme formulated by them and consider the case of the petitioner, if come under the zone of consideration and found eligible in the event of vacancy arose against the sanctioned post. There is no scope to invoke the writ jurisdiction of the court under Article 226 of the Constitution.

**24.** With the above observations and directions, this writ petition stands disposed of. There shall be no order as to costs.

JUDGE