

ITEM NO.49

COURT NO.14

SECTION XII

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO. 2868/2018

[Arising out of impugned final judgment and order dated 27-09-2016 in WP No. 30904/2014 passed by the High Court of Judicature at Madras]

UNION OF INDIA REP BY  
GOVERNMENT OF PUDUCHERRY & ANR.

PETITIONERS

VERSUS

K. VELAJAGAN & ORS.

RESPONDENTS

[ FOR ORDERS ]

Date : 04-02-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPANKAR DATTA  
HON'BLE MR. JUSTICE MANMOHAN

For Petitioner(s) : Ms. Aishwarya Bhati, A.S.G.  
Mr. Aravindh S., AOR  
Mr. Akshay Gupta, Adv.  
Mr. Aadithya Aravindh, Adv.

For Respondent(s) : Mr. T. V. Ratnam, AOR

Mr. Hrishikesh Baruah, AOR  
Mr. Anurag Mishra, Adv.  
Mr. Utkarsh Dwivedi, Adv.  
Mr. Deep Pal Singh Alagh, Adv.

UPON hearing the counsel, the Court made the following  
O R D E R

1. Upon condonation of 348 days delay, a coordinate bench of this Court issued notice on this Special Leave Petition presented by the Union of

India and the Director, Directorate of Technical and Higher Education, Government of Puducherry, *ex parte* on 25<sup>th</sup> January, 2018. The petition is directed against the final judgment and order dated 27<sup>th</sup> September, 2016 passed by the High Court of Judicature at Madras<sup>1</sup> dismissing the writ petition<sup>2</sup> of the petitioners.

2. What appears on a bare reading of the impugned judgment is that the respondents 1 to 3 were appointed on 20<sup>th</sup> January, 2005, on hourly basis, as Lecturers in Motilal Nehru Government Polytechnic College, Puducherry<sup>3</sup> in its Mechanical Engineering Department. Such appointment had the approval of the Lieutenant Governor of Puducherry. Claiming regularization from the date of their respective appointments and all consequential benefits flowing from such regularization, the respondents 1 to 3 had moved the Central Administrative Tribunal, Madras Bench<sup>4</sup> by filing an original application<sup>5</sup>.

3. *Vide* judgment and order dated 03<sup>rd</sup> April, 2013, the Tribunal allowed the original application considering that the relief of regularization had been extended to other similarly situated lecturers and that the respondents 1 to 3 ought not to be discriminated. It is this order of the Tribunal that the High Court upheld *vide* the impugned judgment and order.

4. The Special Leave Petition has been heard over the last seven years by different coordinate benches. Having regard to the disclosures

<sup>1</sup> High Court  
<sup>2</sup> W.P. No. 30904/2024  
<sup>3</sup> Polytechnic College  
<sup>4</sup> Tribunal  
<sup>5</sup> OA No. 420/2012

made in the affidavit dated 29<sup>th</sup> February, 2024 of the petitioners as well as a list of lecturers in position and posts of lecturers that are vacant, which has been tendered across the bar, we are left to lament that a very sorry state of affairs is prevailing in Puducherry.

5. Out of 51 sanctioned posts of lecturers in the Polytechnic College, 45 posts are being manned by incumbents appointed on *ad hoc* basis. Of these 45 incumbent lecturers, 15 of them had earlier moved the Tribunal and had obtained orders for regularization of their services. Such order was upheld by the High Court. Union of India had approached this Court under Article 136 of the Constitution of India in a special leave petition<sup>6</sup>. This Court did not interfere with the impugned judgment and order of the High Court and disposed of the said special leave petition on 19<sup>th</sup> February, 2007 directing as follows:

“On merits, the petitioners, in our opinion, have no good case. We have already noticed the prayer asked for by the respondents before the Tribunal and perused the order passed by the Tribunal. The Tribunal in our opinion directed the petitioners herein to frame a scheme for regular absorption of all casual lecturers or consider all the casual lecturers for appointment on a regular basis at the time of making regular appointments. The said direction is ratified by the High Court. In our opinion, no case is made out for interference with the direction issued by the Tribunal to frame a scheme and also as affirmed by the High Court. In fact, it is brought to our notice by Mr. R. Mohan, learned ASG that the recruitment rules have already been framed and the same have already been published in the Supplement to the Gazette No. 42, of the 17<sup>th</sup> October 2006. Since the direction

<sup>6</sup> SLP (Civil) CC No. 7374/2006

issued by the Tribunal has already been complied with, there is nothing further survives in this Special Leave Petition to be adjudicated upon. Accordingly, the Special Leave Petition stands dismissed. "

6. It is rather unfortunate that despite the aforesaid order of this Court passed in the year 2007, full compliance thereof is yet to see the light of the day. The services of the said 15 incumbent lecturers, who were appointed years back, are yet to be regularized because the Union Public Service Commission<sup>7</sup> has declined to accede to the request of the Lieutenant Governor, Puducherry made in this behalf, raising a plea that the UPSC would not be a party to any illegal appointee being regularized in service. Audacious indeed, considering that an order of this Court is subsisting till date.

7. However, to our utter surprise, it has also been brought to our notice that the UPSC in the past has, in fact, regularized appointments of *ad hoc* lecturers in other disciplines of other institutions in Puducherry, the justification wherefor is completely lacking.

8. Insofar as the respondents 1 to 3 are concerned, it is not in dispute that they have been working since 2005 without blemish. They have the requisite qualifications for appointment on the posts of lecturers. What is alleged to be a major procedural defect in their appointments is that they were not called upon to participate in a process of selection conducted by the UPSC prior to they being appointed. However, sight cannot be lost of the fact that the recruitment

<sup>7</sup> UPSC

rules, i.e., the Government of Puducherry, Motilal Nehru Government Polytechnic College, Puducherry, Group A Post of Lecturer Recruitment Rules, 2006<sup>8</sup> came into existence subsequent to appointment of the respondents 1 to 3 in 2005. Why due recruitment process, immediately after the 2006 Rules were introduced, was not conducted is a question which the petitioners have failed to satisfactorily answer.

9. Be that as it may, neither the said 15 incumbent lecturers nor the respondents should suffer because of the internal squabble between the petitioners and the UPSC. The decision in **State of Karnataka v. Uma Devi (3)**<sup>9</sup>, as held in a recent decision of this Court in **Shripal v. Nagar Nigam, Ghaziabad**<sup>10</sup>, cannot be used as a shield to justify exploitative engagements persisting for years without the employer undertaking legitimate recruitment process to deny relief of regularization.

10. We, therefore see no reason to interfere with the impugned judgment and order of the High Court, meaning thereby that the claims of respondents 1 to 3 for regularization are required to be considered in the light of the decision given by the Tribunal, since affirmed by the High Court. In the process, having found that failure/reluctance to regularize the services of the said 15 incumbent lecturers might come in the way of regularizing the services of the respondents 1 to 3, we also direct that all the 18 incumbent lecturers (15 + 3) be regularized by the Government of Puducherry without any involvement of the UPSC. This

<sup>8</sup> 2006 Rules  
<sup>9</sup> (2006) 4 SCC 1  
<sup>10</sup> (2025) Live Law SC 153

order is passed in exercise of powers conferred on us by Article 142 of the Constitution.

11. We, however, make it abundantly clear that henceforth, for filling up the six vacant posts or other posts that might fall vacant in the Polytechnic College, the Government of Puducherry shall not proceed for any *ad hoc* arrangement and all such vacancies must be filled up in accordance with the 2006 Rules that are in force.

12. With these observations, the Special Leave Petition stands dismissed. Pending application(s), if any, shall stand disposed of.

13. We, however, do not wish to allow the matter rest here. In the matter of public employment, the Government is bound to appoint the best available talent upon issuing advertisements and inviting applications from interested candidates. The manner in which *ad hoc* lecturers have been appointed in the Polytechnic College by the Government of Puducherry even after the 2006 Rules were introduced warrants an in-depth inquiry to find out who was responsible for such illegal appointments. We, accordingly, direct the Central Vigilance Commission to conduct an in-depth inquiry into the matter and submit a report fixing responsibility on the person(s) responsible (either in service or having demitted office) for such large-scale illegality in the matter of appointment of *ad hoc* lecturers. Such report shall be placed before this Court on 14<sup>th</sup> May, 2025.

14. A copy of this order be communicated to the Central Vigilance

Commission by the Registry.

**(POOJA SHARMA)**  
**COURT MASTER (SH)**

**(SUDHIR KUMAR SHARMA)**  
**COURT MASTER (NSH)**