

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.07.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.4566 of 2017

and

W.M.P.Nos.7096 of 2018

and

W.M.P.Nos.4776 & 4777 of 2017

1.Dr.P.Sudhakar
2.Y.Venkatesh
3.N.Srinivasan
4.H.Manikandan
5.R.Selvapandian
6.T.S.Sridharan
7.M.Kumaravelu
8.D.Anthony Raj
9.Dr.T.Sundaramoorthy
10.M.Lakshmi Sree
11.S.Ravishankar
12.K.Venkataratnam
13.R.Sathyanarayanan
14.P.Muniyan
15.L.Jayasekar
16.U.Thirunavkkarasu
17.S.P.Vijayakumari
18.Somenath Mukherjee
19.M.Amirthalingam
20.K.Magesh
21.A.Gopal
22.A.Ezhilarasi
23.Pradeeptkumar Nayak
24.T.R.Gowthama

..Petitioners

vs

1.Union of India,
Represented by its Secretary,
Ministry of Environment, Forest and
Climate Change
Indira Paryavaran Bhavan
Vayu Block, 3rd Floor
Jorbagh Road, Aliganj
New Delhi - 110 003.

2.C.P.R.Environmental Education Centre
Represented by its Secretary,
The CP Ramaswami Aiyar Foundation
No.1, Eldams Road, Alwarpet,
Chennai - 600 018

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in File No.190-4/2010-11/EE (Part) dated 14.02.2017 and quash the same and direct the 1st respondent to release all salary grant to the Petitioners herein after 31/02/2017 & to continue to release the salaries and other benefits due to the staff of the 2nd respondent namely the petitioners without any time limit as undertaken by them in their communication dated 18.05.1990 and 30.09.1990 and in the registered Memorandum of Association dated 10.08.1989 and also recommended by the committee set up by the 1st Respondent in 2014 and direct the 1st respondent to continue to fund the schemes of the 2nd respondent without any time limit as envisaged in the registered Memorandum of Association dated 10.08.1989 and also direct the 2nd Respondent to continue to run CPREEC at the C.P.R. Foundation and implement the various schemes carried on since 1989-90 without any interruption and pass such further or other orders as this Hon'ble Court may deem fit and proper and thus render justice.

Prayer amended as per order dated 15/03/2017 made in WMP.Nos.5483 to 5486/17 in WP.4566/2017.

For Petitioners : Mr.N.G.R.Prasad
For M/s.Row & Reddy

For Respondents : Mr.G.Rajagopalan,
Additional Solicitor General of India
Assisted by Mr.B.Ramarathinam for R1
M/s.Rita Chandrasekar for R2

ORDER

The impugned order dated 14.2.2017 states that the Ministry of Environment, Forest and Climate Change with the approval of competent authority has decided that with the end of 12th Plan period i.e. on 31.03.2017, the present Scheme of CoE, which was being funded under the plan Scheme would be revised and all salary grant to the present Centres of Excellence (CoEs) would cease by the end of current financial year. The Ministry would have no financial commitment to these CoEs w.e.f 01.04.2017.

2.Further, it is stated that the Ministry is proposing a new Scheme, and details of which would be available on the website of the Ministry after finalization. The said order is under challenge on the ground that the Government of India initially in collaboration with the second respondent, implemented the Scheme. Accordingly, in letter dated 10.06.1988, the Government of India set up an Environmental Education Centre

in collaboration with the C.P.Ramaswami Aiyar Foundation(CPRAF) at Madras. Terms and conditions for setting up of a Environmental Education Centre are set out in accordance with the terms and conditions, and the second respondent / C.P.Ramaswami Aiyar Foundation(CPRAF) has to implement the schemes by the terms and conditions stipulated.

3.The learned counsel appearing on behalf of the writ petitioners, who all are the employees of the second respondent organization has stated that these employees were appointed pursuant to the Government of India Scheme implemented in collaboration with the second respondent and therefore, pursuant to the impugned order, their services cannot be dispensed with. It is further contended that in view of the fact that the Government of India funded the implementation of the Scheme and paid the salary to these employees, the second respondent was running the Scheme successfully. There was no complaint whatsoever against the second respondent as well as against the employees, who are working under the control of the second respondent. Under these circumstances, the salary with effect from 01.04.2017 has not been paid to these employees. Thus, these writ petitioners are constrained to move the present writ petition.

4.The reliance is placed on the Government of India in letter dated 10.06.1988, stating that the Environmental Education Centre was established in collaboration with the Government of India by the second respondent. This being the factum, the writ petitioners are entitled for the salary from the Government of India and the Government of India should pay as per their commitment made in the original letter dated 10.06.1988 and on 18.05.1990.

5.The learned counsel appearing on behalf of the second respondent in support of the writ petitioners contended that the second respondent had appointed all these employees pursuant to the funds sanctioned by the Government of India for implementing the Scheme. This being the factum, they have stopped the Scheme abruptly and thereafter, not paying the salary to the employees. In view of the non-availability of the sanctioned funds by the Government of India, the second respondent is not in a position to pay the salary to these employees. Thus, the employees are before this Court for appropriate relief by way of this writ petition.

6.The learned counsel appearing on behalf of the second respondent contended that the Scheme was being implemented successfully by the second respondent from the year 1990 onwards to till date and there is no complaint whatsoever against the second respondent in respect of the implementation of the

Government of India Scheme. When the second respondent has implemented the Scheme introduced by the Government of India as per the terms and conditions. The Government of India cannot all of a sudden stop the funding of the Scheme, which paralyzed the entire system of running the Centre and the employees are also suffering on account of non-payment of salary. Thus, suitable directions are to be issued to release funds for the purpose of payment of salary to these employees.

7.The learned Additional Solicitor General of India appearing on behalf of the Government of India / first respondent opposed the contentions of the writ petitioner as well as the second respondent and stated that the Environmental Education Centre in collaboration with the second respondent / C.P.Ramaswami Aiyar Foundation(CPRAF) at Madras, was sanctioned by virtue of a Scheme introduced by the Government of India. Such schemes are implemented across the Country and various Centres were identified for the purpose of implementing the Scheme successfully. All such Centres are funded by the Government of India, so long as the Scheme was in force. This apart, in respect of appointment of the staff members and establishing the Centre, the Government of India has no role at all. The service conditions, establishments, facilities are to be administered by the Centre concerned. The Government of India only granted funds for the purpose of implementing the Scheme and it is for the Centre concerned to take appropriate action in respect of the establishment. Thus, the Government of India is not responsible for appointing the petitioners in the second respondent Centre. The Government of India has not issued any order of appointment or any such assurance. Contrarily, these employees were appointed pursuant to the service rules formulated by the second respondent Centre. Thus, the Government of India cannot be held liable for further funding in view of the fact that the entire Scheme itself was stopped and the Ministry is proposing to formulate a new Scheme in future. The Scheme is implemented for the welfare of the people and such schemes are introduced and funds were sanctioned periodically. Thus, the authority of the Government of India to stop the Scheme and to introduce the new Scheme, cannot be questioned either by the second respondent Centre or by the employees working in the Centre. Except the funding of the Scheme and overseeing the activities of the Centre, the Government of India have no role to play and in respect of the service conditions, the second respondent Centre alone is responsible and the Government of India is no way connected with the service conditions of the writ petitioners at all.

8.Considering the arguments as advanced by the respective learned counsels appearing for the parties to the lis, this Court is of an opinion that the appointment order of the writ

petitioners are submitted by the learned counsel for the second respondent, the appointment order reads as under:

APPOINTMENT LETTER

Dear Mr.Sudhakar,

1. With reference to your employment application dated 15.4.94 and subsequent interview on 4.5.94, we are pleased to appoint you as Environmental Education Officer in the C.P.R.Environmental Education Centre(herinafter referred to as C.P.R. EEC) on a basic salary of Rs.2200/- per month (Rupees Two Thousand Two Hundred only) in the scale of Rs.2200-75-2800-EB-100-4000 to carry out such duties and in such places and with such designation as the Director or any other Competent Authority may, in the interest of the Centre, from time to time direct.
2. You will be entitled to Dearness Allowance, Provident Fund contribution and other allowances and benefits as are admissible under the rules and regulations of the C.P.R.EEC, for the time being in force.
3. Your appointment is also subject to the following terms and conditions:
 - (a) You will, subject to the terms herein contained, be governed by the Rules and Regulations of the C.P.R.EEC, for the time being in force, relating to conditions of services as are applicable to you;
 - (b) You should not take any employment elsewhere (as part time or otherwise) during your services with the C.P.R.EEC;
 - (c). You are liable to be transferred to any place in India at the discretion of the Competent Authority;
 - (d) You will be required to reside at the place where you are posted unless you are exempted from doing so by the Director, or other competent Authority of the C.P.R.EEC; and
 - (e) While in the services of the C.P.R.EEC, or at any time thereafter, you shall not divulge any information or knowledge gained during services with the C.P.R.EEC or at any time thereafter, which could be detrimental to the interests of the C.P.R.EEC.
4. The following additional conditions shall also be applicable to you;
 - (a) You shall have to give one months' notice in writing or to make payment of amount equivalent to one month's salary in lieu thereof if you desire

to leave the services of the C.P.R.EEC after your confirmation, and the C.P.R.EEC shall also likewise terminate your services by giving one month's notice or one month's salary in lieu thereof; and

(b) You shall, if continued in services in accordance with the Rules and Regulations, retire on superannuation after attaining the age of fifty-eight years.

5. Your appointment and continuance in employment shall be subject to your medical fitness, and the Director or other Competent Authority may require you to undergo a medical examination from time to time at the expense of the C.P.R.EEC, and if found medically incapacitated or otherwise medically unfit for the efficient performance of duties in relation to the employment, your services are liable to be terminated on one month's notice or pay in lieu thereof.
6. Your appointment and related matters shall also be subject to the orders that may be passed or action that may be taken for streamlining and restructuring of the C.P.R.EEC by the Board of Governors.
7. You are requested to report for duty to the Director or Assistant Director on or before June 15, 1994.
8. At the time of joining you will be required to produce (a) a relieving order from your present employer, (b) a medical fitness certificate from a doctor not below the rank of Civil Surgeon and (c) attested copies of certificates in proof of age, qualifications, experience and present salary. Please return the enclosed duplicate copy of this appointment letter duly signed by you in token of your acceptance of the appointment as above, with effect from 1st June 1994.

Yours faithfully,

Director
C.P.R.ENVIRONMENTAL EDUCATIONAL Centre

I accept the above appointment with the terms and conditions indicated herein".

9. All the writ petitioners are issued with the similar appointment orders. The terms and conditions are common. Thus, this Court is of an opinion that the appointment order in unambiguous terms states that the appointment will be subject to

the terms herein contained, be governed by the Rules and Regulations of the C.P.R.EEC, for the time being in force, relating to conditions of services as are applicable to the petitioners.

10. On a perusal of the entire order of appointment, it is unambiguous that these writ petitioners were appointed as per the service rules/by-laws of the second respondent/C.P. Ramaswami Aiyar Foundation (CPRAF). The service rules are also enclosed in Page No.5 of the typed set of papers filed by the second respondent. The Rules for Recruitment and Review of Regular Posts, 1990 are formulated. The rules provide various service conditions, norms of recruitment of postings, technical, scientific and administration and therefore, this Court is of an opinion that the second respondent has formulated a consolidated service rules for the purpose of recording the employees to implement the Scheme through the Centre.

11. Under these circumstances, this Court cannot come to a conclusion that the writ petitioners are the employees of the Government of India. Undoubtedly, these writ petitioners were appointed by the second respondent as per the service conditions formulated in the By-Laws of the second respondent Centre. Such being the factum of the case, the Government of India cannot be held responsible for appointment or salary to these employees throughout and as per the service conditions of the Centre. The Government of India undertook to grant funds for implementation of the schemes alone and once, the Scheme is abolished, there cannot be any further funding and it is left open to the second respondent to opt for any other Scheme. However, they cannot insist the Government of India that they are entitled to get funds for a continuous period even after the abolition of the Scheme itself. If at all any new Scheme is introduced by the Government of India, it is left open to the second respondent to approach the competent authorities. If any new Scheme is uploaded in the Government of India Website, then it is left open for the second respondent to apply for the same and if the second respondent is qualified, it is left open to the competent authorities to consider the second respondent along with all other eligible organizations.

12. In respect of the present writ petition, the writ petitioners are not the employees of the Union of India. They are the employees of the second respondent Centre and therefore, the writ petition itself cannot be maintained. However, there is an agreement between the second respondent Centre and the Government of India in respect of funding for implementation of the schemes effectively. This being the nature of the agreement and now, the Government of India has abolished the Scheme itself.

13.Thus, the writ petitioners are entitled to receive salary only from the second respondent and not from the Government of India. Thus, the second respondent is directed to pay the salary to the writ petitioners as per their appointment orders and as per the service regulations.

14.In this view of the matter, the claim of the writ petitioners for Government of India salary cannot be considered.

15.Thus, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True copy//

Sub Assistant Registrar

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To

1.The Secretary,
Ministry of Environment, Forest and
Climate Change
Indira Paryavaran Bhavan
Vayu Block, 3rd Floor
Jorbagh Road, Aliganj
New Delhi - 110 003.

2. The Secretary,
C.P.R.Environmental Education Centre
The CP Ramaswami Aiyar Foundation
No.1, Eldams Road, Alwarpet,
Chennai - 600 018.

+1cc to Mr.Row & Reddy, Advocate SR.No.52064
+1cc to Mrs.Row Chandrasekaran, Advocate SR.No.52223
+1cc to Mr.B.Ramarathnam, Advocate SR.No.52069

W.P.No.4566 of 2017

VG II(CO)
GN(24/08/2018)