

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 09.08.2019

Delivered on : 28.08.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.No.6595 of 2018

and

W.M.P.No.8193 of 2018

- 1.P.Sasikala
- 2.K.Chithalashmi
- 3.S.Christy Sudha
- 4.K.Josephine Chandrakala
- 5.R.Sasikumar
- 6.R.Perabu
- 7.H.Rajamohmed
- 8.S.Indhirani
- 9.A.Nachammal
- 10.R.Poongodi
- 11.M.Muthukumar
- 12.S.Jayathi
- 13.M.Subramanian
- 14.M.Shanmugapriya
- 15.S.Palanivel
- 16.S.Sangeetha
- 17.R.Thirumozhi
- 18.T.M.Kalpana
- 19.U.Jayachithra

..... Petitioners

Vs.

- 1.Government of Tamil Nadu,
rep by its Principal Secretary,
Rural Development & Panchayat Raj Department,
Fort St.George, Chennai - 600 009.
- 2.The Director/Commissioner,
Rural Development & Panchayat Raj Department,
having office at Panagal Maaligai
Saidapet, Chennai - 600 015.

- 3.The District Collector,
Dharmapuri District.
- 4.The District Collector,
Trichy District.
- 5.The District Collector,
Thiruvallur District.
- 6.The District Collector,
Cuddalore District.
- 7.The District Collector,
Krishnagiri District.
- 8.The District Collector,
Tuticorin District.
- 9.The Block Development Officer,
Dharmapuri Union,
Dharmapuri District.
- 10.The Block Development Officer,
Manikadam Panchayat Union,
Trichy District.
- 11.The Block Development Officer,
Marukapuri Panchayat Union,
Trichy District.
- 12.The Block Development Officer,
Upliapuram Panchayat Union,
Trichy District.
- 13.The Block Development Officer,
Villivakkam Panchayat Union,
Trichy District.
- 14.The Block Development Officer,
Puzla Panchayat Union,
Thiruvallur District.
- 15.The Block Development Officer,
Thiruvalakadu Panchayat Union,
Thiruvallur District.
- 16.The Block Development Officer,
Thiruvallur Panchayat Union,
Thiruvallur District.

- 17.The Block Development Officer,
Dharmapuri Union,
Dharmapuri District.
- 18.The Block Development Officer,
Kumarachi Panchayat Union,
Cuddalore District.
- 19.The Block Development Officer,
Kerapalayam Panchayat Union,
Cuddalore District.
- 20.The Block Development Officer,
Melabhavanagiri Panchayat Union,
Cuddalore District.
- 21.The Block Development Officer,
Kumbapuram Panchayat Union,
Cuddalore District.
- 22.The Block Development Officer,
Nallur Panchayat Union,
Cuddalore District.
- 23.The Block Development Officer,
Kurichipadi Panchayat Union,
Cuddalore District.
- 24.The Block Development Officer,
Uthagarai Panchayat Union,
Krishnagiri District.
- 25.The Block Development Officer,
Santhakuman Panchayat Union,
Thothukudi District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the 1st respondent to consider the claims of the petitioners for regularization of service as Computer Operators from the date of his original appointment with all attended benefits, and pass appropriate orders based on the G.O.Ms.No.878, Rural Development Department, dated 15.05.1981.

For Petitioners .. Mr.V.Vijay Shankar, Sr.Counsel for
Mr.P.Ganesan

For Respondents .. Mr.V.Jayaprakash Narayan,Spl.G.P.

ORDER

The petitioners herein are all working as Computer Operators in various Panchayat Unions of Cuddalore, Dharmapuri, Krishnagiri, Trichy, Thiruvallur and Thothukodi Districts. The petitioners were appointed on various dates from 1995, 1999, 2003, 2004, 2006, 2007 and 2008 onwards and ever since their appointments in their respective dates, they have been continuously working as Computer Operators and discharging their duties without any interruption. All the petitioners herein are qualified Computer Operators.

2.The petitioners have been employed in the existing post of Computer Operator in the respective Panchayat unions on daily wage basis. The posts in which the petitioners are working come under the respective Block Development Officers and the appointment orders being issued by the District Collector concerned. Some of the petitioners have completed 20 years of service and many of them have completed 14, 15 years of service. The duties of the petitioners involved preparation of letters, reports as to the scheme work, uploading the details of payment of salary to all staff members, uploading the replies given by the Officials etc. Besides, the petitioners duty also involved preparation of various reports in regard to the public schemes floated by the Government India as well as the State Government, all software works relating to Mahatma Gandhi National Rural Employment Scheme, Housing Scheme, Prime Minister Housing Scheme, Swatch Bharath Scheme and complaints regarding water problem etc. In effect, the petitioners discharge pivotal role in providing complete data on the functioning of the Panchayat Unions.

3.The Government has issued G.O.Ms.No.878, Rural Development Department, dated 15.05.1981, providing for regularization of the contingent full time staff, in respect of Panchayat Unions, for those who have completed 10 years of service as on 01.04.1981. According to the petitioners the very same Government Order has also provided for bringing the contingent staff on a regular time scale in future. Followed by G.O.Ms.No.878, Rural Development Department, dated 15.05.1981, the Government has issued another order in G.O.Ms.No.267, Rural Development Department, dated 22.12.1999, by delegating the

power to the Collector of the District concerned to regularize the services of the contingent employees, who have completed 10 years of service. Accordingly, more than 2000 daily wage employees' services came to be regularized by various District Collectors.

4.It is also pertinent to mention here that the Government issued yet another Government Order in G.O.Ms.No.55, Rural Development Department, dated 15.06.2006 in-line with its decision as contained in G.O.Ms.No.878, dated 15.05.1981, providing for regularization of Hand Pump Operator Assistants, who have completed 10 years of service and the employees, who were appointed from 1982-1997, were regularized from the date of completion of 10 years of service. According to the petitioners, in case an employee has not completed 10 years of service, he/she will be allowed to continue on a daily wage basis and the District Collector concerned has to send a proposal to the Director of Rural Development Department for the purpose of regularizing the services of the remaining daily rated employees. In fact, such letter was also sent on 18.12.2012 for regularization of some of the employees, employed like the petitioners herein.

5.Further, according to the petitioners, from 2007 onwards the Government has been consistently taking a policy decision towards regularizing all casual employees, daily rated employees, temporary employees etc. However, unfortunately, despite the requirement of Computer Operators for carrying out various types of work, as mentioned above, in all the Panchayat Unions, the grievance of the petitioners has not been redressed by the Government nor by the competent authorities. In these circumstances, the petitioners are before this Court for issue of writ of mandamus directing the first respondent to confer the benefit of regularization to the petitioners as Computer Operators from the date of their original appointments with all attendant benefits in-line with G.O.Ms.No.878, Rural Development Department dated 15.05.1981.

6.Shri.V.Vijay Shankar, the learned Senior counsel appearing for the petitioners would submit that the petitioners have been working uninterruptedly from 1995 to till date and they having been appointed on various dates from 1995 to 2009, their job requirement is full time and continuous and they have been manning the posts which were actually meant for regular employment. Unfortunately, despite lapse of several years and despite various Government Orders issued on the subject of regularization of casual/temporary, daily rated employees, these petitioners have been employed only as daily rated employees. When the petitioners approached the first respondent, there was no response, hence the petitioners were constrained to approach

this Court with a prayer as stated supra.

7. The learned Senior counsel appearing for the petitioners, in support of his contention, would draw the attention of this Court to the decision of the Hon'ble Supreme Court of India in State of Jharkhand Vs. Kamal Prasad & others [(2014) 7 SCC 223]. He would draw the attention of this Court to certain important observations of the Hon'ble Supreme Court of India in regard to regularization of casual employees. The observations and the ruling of the Hon'ble Supreme Court of India are extracted hereunder;

"In the impugned order, the Division Bench of High Court has correctly observed the respondent employees have been in service independent of any interim order passed by the Court. The State Government was in need of Junior Engineers, therefore, the State Government of Bihar allowed the services of the respondent employees in the posts. Thereafter, the State Government of Bihar decided to appoint them in the posts of Assistant Engineers and it was under the impression that their names will be recommended by BPSC. After accepting the case of the respondent employees that since 1987 till 2011 when the orders of termination of service were passed, they continued in service and their salaries were paid with other service benefits including increments and they were duly transferred from the State of Bihar to the State of Jharkhand when it was formed and they were treated as regular appointees for which the Jharkhand State Government did not object their continuance in their services. The Division Bench of the High Court after referring to Umadevi (3), (2006) 4 SCC 1, has clearly held that if a person meets the requirements of the exception carved out in para 53 of Umadevi (3) case, then it is the duty of the State Government to consider his case for regularization in the post. Therefore, the Division Bench of the High Court correctly accepted the same and came to the conclusion that the claims of the respondent employees for regularization in their posts are fit cases and they became unfortunate only because of the creation of the State of Jharkhand over which the employees had no control and could not have prevented creation of the State of Jharkhand and because of that reason only, one State cannot take a different stand with respect to the employees appointed by same process. The State Government cannot make the employees jobless after 30 years

of their continuous service in public employment.

The evidence on record produced by the respondent employees would clearly go to show that they have been rendering services in the posts as ad hoc Engineers since 1987 and have been discharging their services as permanent employees with the appellants. Additional 200 posts were created thereafter by the State Government of Bihar. However, the respondents continued in their services as ad hoc employees without any disciplinary proceedings against them which prove that they have been discharging services to their employees to their satisfaction. The appellant has failed to prove that the respondents have failed to meet the requirements of the exception carved out in para 53 of Umadevi (3) case and the findings of fact recorded by the Division Bench of the High Court in this regard are based on the record, hence the same cannot be termed as erroneous in law. Thus, the legal principle laid down by the Supreme Court in Umadevi (3) case at para 53 squarely applies to the present cases. The Division Bench of the High Court has rightly held that the respondent employees are entitled for the relief, the same cannot be interfered with by the Supreme Court. The High Court was legally correct in extending the benefits of Umadevi (3) case to the respondent employees."

8.The learned Senior counsel for the petitioners would also rely on the decision of the learned Single Judge of this Court (as he then was) dated 16.11.2010 in W.P.No.23410 of 2010, G.K.Govindaraj Vs. the State of Tamil Nadu & others. He would draw the attention of this Court to paragraph Nos.4 to 6, which are extracted hereunder;

"4.The learned counsel for the petitioner contended that the Government having ordered to grant regularization to persons on completion of ten years of part time/daily wage service by G.O.Ms.No.22 dated 28.02.2006, the third respondent is bound to regularize the services of the petitioner, who is in continuous employment of the fourth respondent from 05.03.1997, on completion of his ten years of service.

5.Similar issue was considered by me in W.P.No.4639 of 2007 dated 16.09.2010, wherein I have followed the earlier order made in W.P.(MD). No.11707 of 2006 dated 22.12.2006, which was confirmed in W.A.(MD).No.91 of 2007 dated 25.10.2007. Another similar writ petition was

allowed in W.P.No.18126 of 2008 dated 29.07.2008, which was confirmed in W.A.No.230 of 2009 dated 03.08.2009 and by Special Leave Petition in March 2010. Further the order passed in W.P.No.13499 of 2008 dated 12.06.2008 was also confirmed in M.P.No.1 of 2009 in W.A.(SR)No.75291 of 2009 dated 07.10.2009. The Special Leave Petition filed against the order made in W.A.Nos.151 and 225 of 2009 dated 23.06.2009 was also dismissed by the Supreme Court on 11.02.2010.

6.In the light of the above judgments, which have already been implemented by the Department, no purpose would be served in retaining this writ petition. Therefore, this writ petition is allowed with a direction to the third respondent to pass orders on the proposal already submitted by the fourth respondent as early as 27.11.2008 and pass orders granting regularization of the petitioner's services on his completion of ten years of service with time scale of pay and all other attendant benefits within four weeks from the date of receipt of copy of this order. There shall be no order as to costs. Consequently, M.P.Nos.1 & 2 of 2010 are closed."

9.In the above matter, the learned Single Judge has relied on G.O.Ms.No.22, dated 28.02.2006, which provides for regularization of casual employees, who had served continuously for a period of 10 years as on 01.01.2006. In fact, this Court, in a number of decisions, has followed G.O.Ms.No.22, dated 28.02.2006, and allowed the writ petitions by directing the Government to grant regularization of the casual employees. Therefore, the learned counsel Mr.V.Vijay Shankar would submit that the prayer in the writ petition may be considered favourably.

10.Per contra Shri.V.Jayaprakash Narayan, learned Special Government Pleader appearing for the respondents would stoutly oppose grant of any relief to the petitioners. According to him, these writ petitioners were not appointed against the sanctioned vacancy in the existing staff pattern of Rural Development and Panchayat Raj Department. The employment of these Computer Operators was only temporary arrangement, since the Typists employed in the Panchayat Unions were originally not conversant with the Computer Operation. Moreover, when these petitioners were appointed, communal reservation was not followed and there was no due selection conducted before their appointments. Therefore, their appointments were not only

irregular but also illegal, since these petitioners have gained employment illegally through back door. The learned Special Government Pleader would therefore submit that the Hon'ble Supreme Court of India has frowned upon regularization of back door entrants.

11.The learned Special Government Pleader would draw the attention of this Court to paragraph No. 43 of the decision passed by the Hon'ble Supreme Court reported in Secretary, State of Karnataka Vs. Umadevi and others [(2006) 4 SCC 1]. In fact, the said paragraph was incorporated in the counter affidavit filed on behalf of the first respondent. The observations of the Constitutional Bench of the Hon'ble Supreme Court of India are extracted hereunder;

"43.Thus, it is clear that adherence to the rule of equality in public employment is a basic feature of our Constitution and since the rule of law is the core of our Constitution, a Court would certainly be disabled from passing an order upholding a violation of Article 14 or in ordering the overlooking of the need to comply with the requirements of Article 14 read with Article 16 of the Constitution. Therefore, consistent with the scheme for public employment, this Court while laying down the law, has necessarily to hold that unless the appointment is in terms of the relevant rules and after a proper competition among qualified persons, the same would not confer any right on the appointee. If it is a contractual appointment, the appointment comes to an end at the end of the contract, if it were an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. Similarly, a temporary employee could not claim to be made permanent on the expiry of his term of appointment. It has also to be clarified that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. It is not open to the court to prevent regular recruitment at the instance of temporary employees whose period of employment has come to an end or of adhoc employees who by the very nature of their appointment, do not acquire any right. High Courts acting under Article 226 of the Constitution of

India, should not ordinarily issue directions for absorption, regularization, or permanent continuance unless the recruitment itself was made regularly and in terms of the constitutional scheme. Merely because, an employee had continued under cover of an order of Court, which we have described as 'litigious employment' in the earlier part of the judgment, he would not be entitled to any right to be absorbed or made permanent in the service. In fact, in such cases, the High Court may not be justified in issuing interim directions, since, after all, if ultimately the employee approaching it is found entitled to relief, it may be possible for it to mould the relief in such a manner that ultimately no prejudice will be caused to him, whereas an interim direction to continue his employment would hold up the regular procedure for selection or impose on the State the burden of paying an employee who is really not required. The courts must be careful in ensuring that they do not interfere unduly with the economic arrangement of its affairs by the State or its instrumentalities or lend themselves the instruments to facilitate the bypassing of the constitutional and statutory mandates."

12. Apart from the above decision of the Hon'ble Supreme Court of India, the learned Special Government Pleader would rely on a later decision of the Hon'ble Supreme Court of India in the State of Rajasthan and others Vs. Dayalal & others [(2011) 2 SCC 429], wherein the Hon'ble Supreme Court has formulated settled principles relating to regularization and parity in pay as follows;

"(i) High Courts, in exercising 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 regularization of services of an employee which would be violative of 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 an 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 off 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.

(See : Secretary, State of Karnataka vs. Uma Devi - 2006 (4) SCC 1, M. Raja vs. CEERI Educational Society, Pilani - 2006 (12) SCC 636, S.C. Chandra vs. State of Jharkhand - 2007 (8) SCC 279, Kurukshetra Central Co-operative Bank Ltd vs. Mehar Chand - 2007 (15) SCC 680, and Official Liquidator vs. Dayanand - 2008 (10 SCC 1) "

13. According to the learned Special Government Pleader, these petitioners do not come within the exception carved out by the Hon'ble Supreme Court of India in Umadevi's case and also the above two decisions of the Hon'ble Supreme Court of India, where guidelines were formulated and strong observations were made, which were against the petitioners' claim for regularization.

14. At this the learned counsel for the petitioners would draw the attention of this Court to the recent judgment of the Division Bench of this Court passed in The State of Tamil Nadu & others Vs. M. Karupaiyan [W.A.No.1594 of 2017, dated 28.11.2017]. The Division Bench, after referring to various instructions and orders, has finally held as follows in paragraph Nos. 16 to 20, which are extracted hereunder;

"16. Material on record discloses that the consolidated pay has also been periodically increased. Clause 5 (6) of G.O.Ms.No.84 Rural Development and Panchayat Raj (CGS - 1) Development dated 4/8/2009 states that the posts of computer assistant sanctioned shall be filled up through employment exchange in accordance with the qualification and procedure already ordered. All the respondents have been appointed pursuant to G.O.Ms.No.153, Rural Development and Panchayat Raj (CGS-I) Department, dated 20/10/2006, wherein outsourcing them, on contract basis, has been permitted.

17. When Government had permitted the District Collectors, to select two computer assistants, per block, by calling for a list from the employment exchange and conducting a simple test for them or by outsourcing them locally, on contract basis and place them on a consolidated pay of Rs.4,000/- p.m., which has been gradually increased, such of those appointed by the District Collectors, by outsourcing method, cannot be said to be a back door entry, as such entry was permitted, when the respondents were inducted as computer assistants.

18. Going through the G.Os extracted supra, and having regard to the method of selection, and continuation of the respondents, as computer assistants, for ten years, we are of the view that the directions of the writ Court, to consider the representations of the respondents, for allowing them to take part in the ensuing special

qualification post for the post of Junior Assistant, as notified in G.O.(MS) No.37, Rural Development and Panchayat Raj Department, dated 22/3/2017, cannot be said to be manifestly illegal. Having worked for ten years as computer assistants on consolidated pay, under the then Government Orders, which permitted outsourcing, they cannot be allowed to stand apart from those who were appointed through employment exchange. Expectation of a person who had worked for long number of years on consolidated basis, in the case on hand, for ten years, to get absorbed, after competing with others, cannot be said to be illegitimate. In fact, at paragraph No.3 of G.O.Ms.No.37, Government have considered the request of one time relaxation of reservation.

19. At paragraph No.8 of the said G.O., Government ordered as hereunder:-

8. The Government after careful examination of the proposal of the Director of Rural Development and Panchayat Raj has decided to accept the same. Accordingly, the Government order as follows:

(i) To downgrade 858 posts of Assistants created for MGNREGS as Junior Assistants so as to absorb 906 Computer Assistants, who have completed 5 years of service as on 30.09.2015 working under MGNREGS and in the existing vacancies of Junior Assistant posts created for MGNREGS in the Junior Assistant time scale or pay.

(ii) To issue necessary amendments to the Special Rules for Tamil Nadu Ministerial Service after absorption.

(iii) These Computer Assistants are to be absorbed as Junior Assistants by conducting a special qualifying test by TNPSC in the posts already sanctioned under MGNREGS only, to follow rule of reservation. Hence, if the MGNREG Scheme stopped, the measures to be taken by the Government for the present staff working under MGNREGS will also be applicable to these Computer Assistants who are to be absorbed as Junior Assistants.

(iv) The vacancies arises out of absorbing the Computer Assistants as Junior Assistants should not be filled through outsourcing and the work may be continued to be discharged by the Junior Assistants as they are already trained in Computer.

20. For the reasons stated supra, we are not inclined to interfere with the order passed by the writ Court in W.P.Nos.8979 of 2017 and 28961 of 2014, dated 27/4/2017. Writ Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed."

15. In the above matter, the Division Bench was dealing with the post of Computer Operator and in fact, a direction was issued to regularize them as Junior Assistants, which posts are available in the Panchayat Unions. Therefore, the learned counsel for the petitioners would submit that the petitioners claim is just and equitable and their prayer may be allowed.

16. Considered the submissions made by Mr.V.Vijay Shankar, learned Senior Counsel appearing for the petitioners and Mr.V.Jayaprakash Narayan, learned Special Government Pleader appearing for the respondents.

17. The factum of employment of these petitioners for a long period of time has not been seriously disputed by the respondents. Likewise, the qualification and eligibility of these petitioners have also been not in dispute, as could be seen from the pleadings and materials placed on record. The principal objection raised on behalf of the Government is that these writ petitioners were back door entrants and not accommodated against any sanctioned posts. Therefore, in the absence of any sanction of post, their claim for regularization is without any legal or factual basis and therefore, the same cannot be allowed.

18. Moreover, the learned Special Government Pleader would submit that in view of the Constitution Bench decision rendered in Umadevi's case by the Hon'ble Supreme Court of India, it is no more open to the casual employees like the petitioners herein to seek any claim for regularization, as such employees have gained entry through back door. Such appointments, as per the Hon'ble Supreme Court decision is against the Constitutional scheme and hence, such claims cannot be considered at all. Infact, the learned Special Government Pleader was emphatic in making his submission resisting the claim of the petitioners.

19.While this Court is in agreement with the emphatic observations and the rulings of the Hon'ble Supreme Court of India in the case of Umadevi, but at the same time, even in that case, the Hon'ble Supreme Court has carved out an exception in paragraph No. 53 of the judgment. In this case, the grievance of the petitioners is that their services were continued not with the help of any interim orders passed by this Court. The respondents themselves have felt that the petitioners services were required and hence these petitioners have been continued ever since their date of appointments. Once these petitioners have been employed continuously without interruption, this would conclusively prove that the employment of the petitioners is regular in nature and therefore, their claim could be addressed earnestly by the Government with due regard to fairness, equity and good conscience.

20.As rightly contended by the learned counsel for the petitioners, a number of Government Orders have been issued over a period of time, setting a trend by the Government of a paradigm shift in their policy that the continuous employment of casual employees need to be regularized at sometime, as otherwise, keeping such persons on a temporary or casual basis for indefinite period would amount to exploitation. In fact, the Government itself, in respect of the Rural Development Department, had issued G.O.Ms.No.878 dated 15.05.1981, followed by two Government Orders, referred to above, providing for regularization of similar casual employees/contingent staff. When the Government has taken action in pursuance of the Government Orders, with the intention to uplift the contingent staff from the state of uncertainty to the state of certainty by granting them the benefit of regularization, this Court is unable to see as to how Umadevi's case can be pressed into service to resist the claim of the petitioners herein.

21.When the Government itself, as a matter of policy, has issued a number of Government Orders in regularizing temporary casual employees and contingent staff employed in various departments and such benevolent action by the Government has benefited thousands of employees in the past, this Court does not understand as to how the present petitioners' claim could be ignored. In the said circumstances, the opposition to the relief claimed by the petitioners amounted to discriminatory treatment, which cannot stand the test of equality Clause enshrined in Articles 14 and 16 of the Constitution of India.

22.Even otherwise, when the work has been extracted from these petitioners full time, day in and day out, by keeping them as daily rated employees is unfair and opposed to good conscience. These petitioners have accepted such unfair

treatment only with a hope that at some point of time their claim for regularization could be considered. Therefore, the petitioners cannot be allowed to languish as daily rated employees for indefinite period and be denied of the regular benefits of the Government employees forever. Such scenario does not show the welfare State in good light. Whenever a class of employees like the petitioners herein face unfair situation of being employed on a daily rate basis, denied of all benefits as that of regular employees, but discharging regular duties, such situation would only rob the State of its constitutional obligation to be reasonable to its citizens and provide adequate livelihood to support the sustenance of these petitioners, in furtherance of Article 21 of the Constitution of India. After all, any policy of the State has to be measured in terms of how the policies treat the weaker sections of the society. When these petitioners are allowed to be exploited by the authorities by paying them some pittance as daily wages and work has been extracted as that of regular employees, the least the State could do in such situation is to consider the claim for regularization at some point of time. Their cry for regularization cannot be hanging fire, without any positive action in sight at the hands of the State. The idea of welfare State is realized only when the citizens are treated fairly, equally and without any exploitation.

23. In the above circumstances, this Court is of the view that by virtue of long years of employment by these petitioners, their claim for regularization is completely justified and such claim, if not considered by the Government would only result in grave injustice being done to these petitioners.

24. For the above said reasons, this Court is of the view that the petitioners have made out a case for grant of relief. The writ petition is therefore allowed and there shall be a direction to the Government and to the competent Authorities to initiate further steps to regularize the services of the petitioners as Computer Operators from the date of their original appointments and in case, such posts are not available and sanctioned, these petitioners shall be considered for regular employment in allied posts on the basis of their qualifications, by giving them the benefit of the past services as Computer Operators. The first respondent is directed to extend the benefit of various Government Orders passed on the subject of regularization. If no such Government Order is applicable to the claim of these petitioners, the first respondent is directed to examine the claim of these petitioners sympathetically and pass appropriate orders, if necessary, by framing new Scheme, by granting the benefit of regularization to these petitioners. The first respondent in this regard is

directed to pass appropriate orders within a period of 12 weeks from the date of receipt of copy of this order. Connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary,
Rural Development & Panchayat Raj Department,
Fort St.George, Chennai - 600 009.
- 2.The Director/Commissioner,
Rural Development & Panchayat Raj Department,
having office at Panagal Maaligai
Saidapet, Chennai - 600 015.
- 3.The District Collector,
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Kumbapuram Panchayat Union,
Cuddalore District.
- 22.The Block Development Officer,
Nallur Panchayat Union,
Cuddalore District.
- 23.The Block Development Officer,
Kurichipadi Panchayat Union,
Cuddalore District.

24.The Block Development Officer,
Uthagarai Panchayat Union,
Krishnagiri District.

25.The Block Development Officer,
Santhakuman Panchayat Union,
Thothukudi District.

+1 cc to M/s.V.Jayaprakash Narayanan Advocate sr74903

W.P.No.6595 of 2018

aa09/09/2019