

C.M.P.Nos.13512, 13516 and 13519 of 2019
in
Writ Appeal No.1907 of 2018

T.S.SIVAGNANAM, J.
and
K.KALYANASUNDARAM, J.

(Common Order of the Court was made by T.S.Sivagnanam, J.)

Heard Mr.B.S.Gnanadesikan, learned Senior Counsel, for M/s.Gnanadesikan Law Associates, learned counsel for the petitioner; Mr.P.S.Sivashanmugasundaram, learned Special Government Pleader for the first respondent; and Ms.Karthika Ashok, learned Standing Counsel for the second and third respondents.

2.C.M.P.No.13512 of 2019 has been filed to direct the respondents not to make any cut in the daily wages of the petitioner Association after 31.03.2019, since they were continuously working and signing in the attendance register from 01.04.2019.

2.1. C.M.P.No.13516 of 2019 has been filed to direct the respondents to pay the wages of the petitioner Association from 01.04.2019.

2.2. C.M.P.No.13519 of 2019 has been filed to grant extension of services to the members of the petitioner Association up to 31.03.2010, i.e., for a period of nine months from 01.04.2019 as extended on similarly placed persons in Thiruvallur and Kancheepuram Districts in terms of G.O.(D) No.124, Public (Elections V) Department, dated 26.04.2019.

3.A small background as to the litigation is required to be stated. The petitioner Association filed a writ petition before this Court in W.P.No.21101 of 2015 praying for a direction to forbear the 2nd and 3rd respondents from terminating the services of the petitioner Association from the post of Section Writers and consequently, allow the petitioner Association to continue in service as Section Writers on par with similarly placed Section Writers working in other Districts with benefits of consideration for regularisation of services based on the proposals forwarded by the first respondent dated 19.11.2012. The writ petition was dismissed by order dated 03.07.2018, on the ground that the initial appointment of the petitioners/members of the petitioner Association being irregular, they are not entitled for the benefit of regularisation as per the principles laid down by the Apex Court in **State of Karnataka**

And Ors. vs. Uma Devi And Ors., reported in **(2006) 4 SCC 1** and **Secretary to Government, School Education Department, Chennai vs. R.Govindasamy And Ors.,** reported in **(2014) 4 SCC 769.**

4.The petitioner Association filed writ appeal against the said order in W.A.No.1907 of 2018. The Hon'ble Division Bench, by judgment dated 03.09.2018, to which one of us (MKKSJ) was a party, dismissed the writ appeal. However, during the course of hearing of the writ appeal, a Government Order in G.O.(D) No.189, Public (Elections V) Department, dated 13.06.2018 was produced in which, the Government took a decision to continue the services of 171 Section Writers in the offices of the District Election Officer and Commissioner, Greater Chennai Corporation, Chennai; District Election Officer and District Collector, Tiruvallur and Kancheepuram for a period of one year from 01.04.2018 to 31.03.2019. Therefore, the Hon'ble Division Bench observed that there can be no impediment for engaging the members of the petitioner Association till 31.03.2019 and accordingly, directed that they shall be continued till 31.03.2019 making it clear that they cannot claim for permanent absorption or regularisation.

5. In accordance with the directions issued, the members of the petitioner Association had continued as Section Writers discharging duties in the office of the District Election Officer and Commissioner, Greater Chennai Corporation, Chennai. Though the period was extended till 30.03.2019, on instructions, the learned Standing Counsel submits that the members of petitioner Association are continuing even till date.

6. It is seen that the Government had issued another Government Order in G.O.(D) No.124, Public (Elections V) Department, dated 26.04.2019 for further continuance of 171 posts of Section Writers. However, the petitioners Association's grievance is that so far as the Section Writers working in Tiruvallur and Kancheepuram are concerned, their services have been extended for a period of one year from 01.04.2019 to 31.03.2020 on daily wages basis. However, the services of the Section Writers working in the District Election Officer and Commissioner of Greater Chennai Corporation, Chennai, has been extended only for a period of three months, i.e., from 01.04.2019 to 30.06.2019 on daily wages basis. Therefore, it is submitted that there

can be no discrimination in the matter of extending such benefit to the Section Writers working in the District Election Officer and Commissioner of Greater Chennai Corporation, Chennai on par with those working in Tiruvallur and Kancheepuram.

7. Ms. Karthika Ashok, learned Standing Counsel has drawn the attention of this Court to the counter affidavit filed in the writ petition, more particularly, the averments in paragraph 17. On a reading of the said paragraph, one gets a clear indication that the services of the Section Writers are indispensable. However, since they were not recruited following proper recruitment procedure, their services are entitled to be recruited through an authorized man power agency. However, that is a decision which has to be taken by the respondents.

8. For the present, we are concerned as to whether the members of the petitioner Association should be permitted to continue for a period of one year, i.e., up to 30.03.2020.

9. On a reading of the Government Order in G.O.(D) No.124, dated 26.04.2019, we find that all the District Election Officers, viz., Chennai,

Tiruvallur and Kancheepuram have uniformly certified that the Section Writers working under them are well experienced and well acquainted with various duties and responsibilities assigned to them which clearly shows that their services are indispensable. However, it is not clear as to why the District Election Officer of Chennai District requested for continuance of 90 Section Writers only for a period of three months, when the counter affidavit filed in the writ petition clearly indicates the continued engagement of these Section Writers in Chennai District also. Presumably because there was such a request, the Government has extended the services for three months till 30.06.2019 and for the Section Writers in Tiruvallur and Kancheepuram for one year up to 30.03.2020, since we find the recommendation which found acceptance by the Government culminating in G.O.(D) No.124, was uniformly in respect of three Districts certifying their need. Therefore, we find that the members of the petitioner Association, who are working as Section Writers in the District Election Office and Office of the Commissioner Greater Chennai Corporation, Chennai should also be permitted to continue till 30.03.2020 as extended to those Section Writers working in Tiruvallur and Kancheepuram.

10. Needless to state that since the members of the petitioner Association are continuing to discharge their functions as Section Writers on daily wages basis, they have to be paid wages till they are engaged. The wages from 01.04.2019 is stated to have not been paid, which will be paid to the Section Writers.

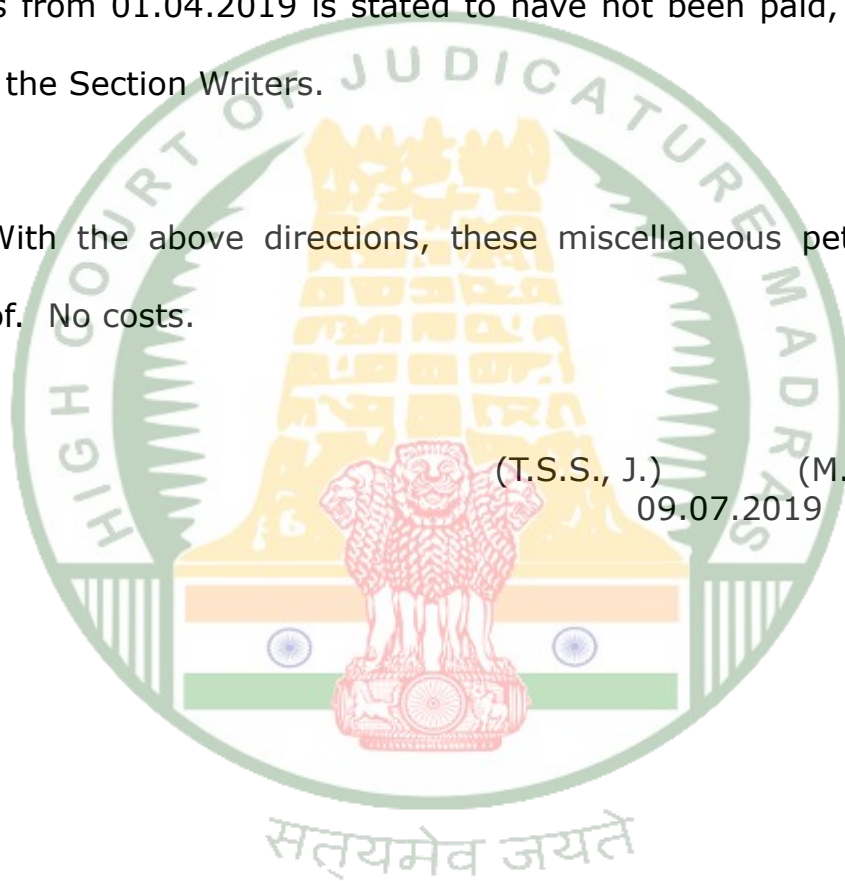
11. With the above directions, these miscellaneous petitions are disposed of. No costs.

(T.S.S., J.)

(M.K.K.S., J.)

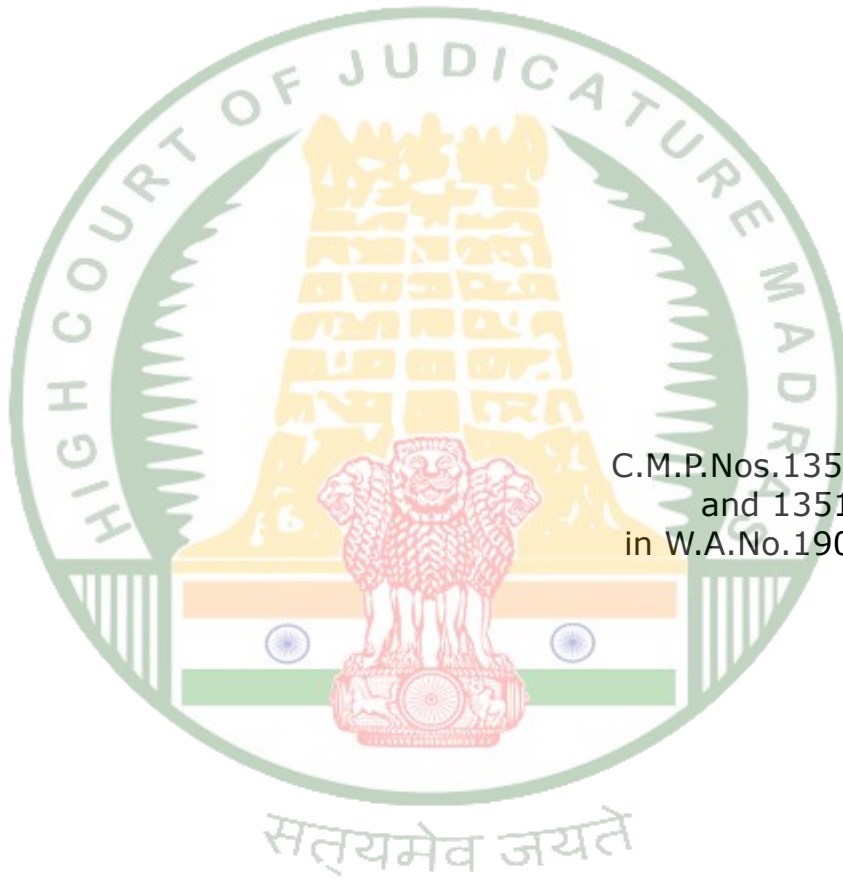
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and
K.Kalyanasundaram, J.
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