



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : **09.04.2019**

Delivered on : **24.04.2019**

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. [MD] Nos. 8705 to 8724 of 2017

and

W.M.P. (MD) Nos. 6608 to 6627 of 2017

T. Deivalakshmi	: Petitioner in W.P. (MD) No. 8705 of 2017
V. T. Gomathi	: Petitioner in W.P. (MD) No. 8706 of 2017
V. Saraswathi	: Petitioner in W.P. (MD) No. 8707 of 2017
A. Karuppai	: Petitioner in W.P. (MD) No. 8708 of 2017
R. Arockia Reetha Mary	: Petitioner in W.P. (MD) No. 8709 of 2017
P. Abirami	: Petitioner in W.P. (MD) No. 8710 of 2017
S. Buvaneswari	: Petitioner in W.P. (MD) No. 8711 of 2017
J. Maheswari	: Petitioner in W.P. (MD) No. 8712 of 2017
V. Jayalakshmi	: Petitioner in W.P. (MD) No. 8713 of 2017
S. Karthik	: Petitioner in W.P. (MD) No. 8714 of 2017
V. Mohandass	: Petitioner in W.P. (MD) No. 8715 of 2017
A. K. Mohanasundaram	: Petitioner in W.P. (MD) No. 8716 of 2017
P. Arunkumar	: Petitioner in W.P. (MD) No. 8717 of 2017
A. Tamilmaran	: Petitioner in W.P. (MD) No. 8718 of 2017
R. Mariyaraj	: Petitioner in W.P. (MD) No. 8719 of 2017
M. Selvakumar	: Petitioner in W.P. (MD) No. 8720 of 2017
M. Alagar Samy	: Petitioner in W.P. (MD) No. 8721 of 2017
K. Dheenathayalan	: Petitioner in W.P. (MD) No. 8722 of 2017
K. Marimuthu	: Petitioner in W.P. (MD) No. 8723 of 2017
T. Venkatesa Perumal	: Petitioner in W.P. (MD) No. 8724 of 2017

Vs.

1. The State of Tamil Nadu,
rep. by its Principal Secretary to Government,
Rural Development and Panchayat Raj,
Fort St. George, Chennai-600 009.

2. The Director of Rural Development and Panchayat Raj,
Panagal Building, No. 1, Green's Road,
Saidapet, Chennai-600 015.

3. The District Collector,
Dindigul District,
Dindigul.

: Respondents in all W.Ps.

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to treat the petitioners on par with the Computer Assistants, who were recruited in Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) through Employment Exchanges, for the purpose of absorption as



Junior Assistants.

For Petitioner
in all W.Ps.

: Mr.L.Shaji Chellan

For Respondents
in all W.Ps.

: Mrs.J.Padmavathy Devi,
Special Government Pleader

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COMMON ORDER

Since the issues involved in all the Writ Petitions are one and the same, they have been taken up for hearing together and are being decided by means of this common order.

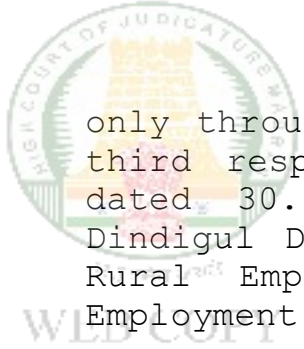
2. The prayer in all the Writ Petitions is to direct the respondents to treat the petitioners on par with the Computer Assistants, who were recruited under Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) through Employment Exchanges, for the purpose of absorption as Junior Assistants.

3. According to the petitioners, they work as Computer Assistants in Dindigul District under Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS). They were appointed through outsourcing, as per the Government Orders issued periodically. However, the Computer Assistants, who were recruited through Employment Exchanges alone, were considered for the Special Qualifying Test for absorption as Junior Assistants. The petitioners were discriminated. Therefore, seeking parity with the selection of appointees through Employment Exchanges, they have made representations on various dates to the respondents. However, none of them was considered so far, which necessitated the petitioners to approach this Court by filing the present Writ Petitions for the relief as stated above.

4. The learned counsel for the petitioners submitted that the Tamil Nadu Rural Employment Guarantee Scheme was launched in Tamil Nadu under the National Rural Employment Guarantee Act, 2005 on 02.02.2006 in six districts namely Cuddalore, Villupuram, Thiruvannamalai, Nagapattinam, Dindigul and Sivagangai. These six districts are Phase-I districts for the purpose of implementation of Mahatma Gandhi National Rural Employment Guarantee Scheme (hereinafter referred to as 'MGNREG Scheme'). The scheme is funded by the Government of India. Vide G.O.(Ms)No.153, dated 20.10.2006, Rural Development and Panchayat Raj (CGS.1) Department, 180 posts of Computer Assistants were sanctioned for effective implementation of MGNREG Scheme. The qualification fixed by the Government for appointment as Computer Assistant is a Degree in Computer Science or Computer Application. The Government directed the District Collectors to make appointments either through

<https://hcservices.ecourts.gov.in/HCServices/EmployeeList.aspx>

Employment Exchange or through outsourcing. Based on the aforesaid Government Order, in Dindigul District, all appointments were made



only through outsourcing and not through Employment Exchange. The third respondent, through his proceedings in RCO.No.3541/06/A3, dated 30.10.2006, requested the Gandhigram Rural University, Dindigul District, to recruit Computer Assistants for Tamil Nadu Rural Employment Guarantee Scheme under the National Rural Employment Guarantee Act, 2005.

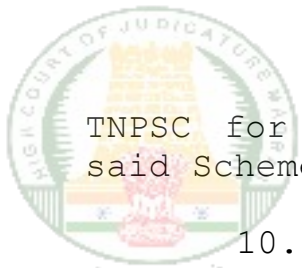
5. It is further stated that as per the directions of the Government, the Gandhigram University advertised the appointment of Computer Assistants in all newspapers. Pursuant to the advertisements, written examination and computer skills were conducted and based on the marks, selections were made. 40% reservation to the women was also provided as per the direction of the District Collector. The District Collector also informed the Gandhigram Rural University that monthly payment to the Computer Assistants shall be made through the District Rural Development Authority. In Dindigul District, 28 Computer Assistants were appointed in the year 2006 through Gandhigram Rural University. No Computer Assistant was appointed through Employment Exchange.

6. While so, during 2007, the Government of India have notified 4 more new Districts in Tamil Nadu for implementation of National Rural Employment Guarantee Act, 2005 in the II Phase of expansion. Vide G.O.No.115, dated 02.07.2007, the Government further sanctioned 102 additional posts of Computer Assistants for the effective implementation of the Scheme. Thereafter, through G.O.No.27, dated 20.02.2008, the Scheme was extended to all districts in Tamil Nadu except Chennai. Thereafter, vide G.O.No.84, dated 04.08.2009, the Government sanctioned several posts of Computer Assistants.

7. The Ministry of Rural Development, Government of India has increased the administrative expenses for the scheme and hence, the consolidated pay of Computer Assistants was enhanced from Rs.4,000/- to Rs.7,500/- in order to ensure parity with Computer Assistants working in other projects.

8. It is pertinent to state here that vide G.O.(Ms)No.84, the Government has ordered that Computer Assistants shall be appointed only through Employment Exchange. Thereafter, vide G.O.(Ms)No.71, dated 20.06.2014, the consolidated pay of Computer Assistants appointed under various channels for Mahatma Gandhi National Rural Guarantee Scheme was increased from Rs.7,500/- to Rs.11,000/- per month.

9. It is stated that the Government issued G.O.(Ms)No.37, Rural Development and Panchayat Raj (E5) Department, dated 22.03.2017, in which, the Government has proposed to absorb the Computer Assistants presently working under MGNREG Scheme as Junior Assistants in the time scale of pay, for such absorption, the Government has decided to conduct a special qualifying test by



TNPSC for the Computer Assistants presently working under the said Scheme.

10. It is submitted that presently, there are 1971 Computer Assistants working under the second respondent in sanctioned posts on consolidated pay under the said Scheme. As per G.O.Ms.No.37, Computer Assistants, who have completed five years of service in consolidated pay as on 30.09.2015, are eligible to appear for the above said test for absorption in time scale of pay. However, surprisingly, 906 Computer Assistants, who have been appointed through Employment Exchanges, are permitted to appear for the test for absorption as Junior Assistants. Though there is no express prohibition for the Computer Assistants who have been appointed through outsourcing, to appear for the proposed special qualifying test, they are discriminated and persons appointed through Employment Exchanges alone are being considered for the said test.

11. The learned counsel further submitted that in Dindigul District, appointments were made only through outsourcing by Gandhigram Rural University, from 2006 onwards. The petitioners were appointed as Computer Assistants in consonance with G.O.(Ms) No.153, dated 20.10.2006. The Government has specially ordered to appoint Computer Assistants either through Employment Exchanges or through outsourcing. The petitioners have equal qualification, seniority, pay, service conditions in par with those who are appointed through Employment Exchanges. All the Computer Assistants are working under the MGNREG Scheme with equal pay and all of them are carrying out the same duties. There is no discrepancy between the persons appointed through outsourcing and through Employment Exchange.

12. It is contended that when all the Computer Assistants equally seated for all purposes, discriminating them into two categories for absorption into time scale of pay is unjustifiable. Therefore, they prayed for appropriate directions.

13. The third respondent alone filed a counter-affidavit. Though the Writ Petition was admitted and notice was ordered to the respondents on 28.04.2017, the first respondent/the Principal Secretary to Government, who is the competent authority to decide the issue involved in the present Writ Petitions, has not filed counter-affidavit so far.

14. Controverting the submissions made by the learned counsel for the petitioners, the learned Special Government Pleader appearing on behalf of the respondents contended that the petitioners themselves accepted that the appointments were made through outsourcing on contract basis. As such, they cannot claim a matter of right, to be as permanent. The Government have clearly indicated in the appointment order that the Computer Assistant should be selected on contract basis and



their post (Computer Assistant) shall be continued only until the existence of the Scheme (MGNREGS) or necessity of the posts, whichever is earlier. Thus, the petitioners cannot claim their right to absorb them as Junior Assistant.

15. It is stated further that the Computer Assistants, who were appointed on contract basis through outsourcing, are only temporary and moreover, communal rotation was not followed in outsourcing appointment. In order to regularize the appointment, the Government have decided to regularize those who were appointed through Employment Exchange adopting communal rotation. Thus, the petitioners have no right to interfere with Government policy.

16. It is also submitted that the Government have issued G.O.(Ms)No.37, Rural Development and Panchayat Raj (E5) Department, dated 22.03.2017 stating that those Computer Assistants, who were selected through Employment Exchanges alone, will be eligible for absorption to the qualifying test for the post of Junior Assistant. This decision has been arrived at by the Government on its policy based on financial constraint. Moreover, appointment made through the Employment Exchange would fulfil all the conditions legally and particularly, communal rotation would be adhered to. The petitioners were selected only through outsourcing method in order to implement MGNREG Scheme effectively. Thus, they cannot claim any parity with the appointment made through Employment Exchange. Stating so, the learned Special Government Pleader appearing for the respondents prayed for dismissal of the Writ Petitions.

17. I have considered the rival submissions and perused the materials available on record carefully.

18. Admittedly, the Government directed the District Collectors to make appointment either through Employment Exchange or through outsourcing, in order to effectively implement the Scheme, viz., Mahatma Gandhi National Rural Employment Guarantee Scheme. Initially, in Dindigul District, appointments were made only through outsourcing method and not through Employment Exchanges. Subsequently, the Government, vide G.O.(Ms)No.84, has ordered that the Computer Assistants shall be appointed only through Employment Exchanges. When that being the position, the Government issued G.O.(Ms)No.37, Rural Development and Panchayat Raj (E5) Department, dated 22.03.2017, wherein it is proposed to absorb the Computer Assistants presently working under MGNREG Scheme as Junior Assistants in the time scale of pay. Though 1971 Computer Assistants are working under the second respondent in sanctioned posts on consolidated pay under the said Scheme, 906 Computer Assistants, who have been appointed through Employment Exchange, are permitted to appear for the special qualifying test for absorption as Junior Assistants. Such discrimination was shown in the case of the petitioners, though



they are having equal qualification, seniority, pay and service conditions on par with them. Therefore, this Court is of the view that interest of justice would be sub-served, in case a direction is issued to the respondents to consider the representations made by the petitioners.

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19. In such circumstances, having regard to the submissions made on either side, this Court hereby directs the respondents to consider the representations made by the petitioners on various dates, seeking permission to appear for the special qualifying test for absorption as Junior Assistants on par with the Computer Assistants, who were recruited under Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) through Employment Exchanges and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order.

20. The Writ Petitions are disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Rural Development and Panchayat Raj,
Fort St. George, Chennai-600 009.

2.The Director of Rural Development and Panchayat Raj,
Panagal Building, No.1, Green's Road,
Saidapet, Chennai-600 015.

3.The District Collector,
Dindigul District,
Dindigul.

+1 CC to M/s.L.SHAJI CHELLAN, Advocate (SR-62195[F] dated 24/04/2019)

+1 CC to M/s.SPL GP (SR-62754[F] dated 25/04/2019)

SML

Common Order made in

W.P. [MD] Nos. 8705 to 8724 of 2017

24.04.2019