

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.Nos.1871, 1874, 1877, 1878, 1880, 1882,
1884, 1886, 1897, 1888, 1889, 1891, 1893,
1910, 1914, 1918, 1921 and 1924 of 2020
and

WMP.Nos.2191, 2197, 2199, 2204, 2205, 2206,
2209, 2212, 2213, 2214, 2215, 2211, 2222, 2235,
2238, 2244, 2246, 2250, 3580, 3583 and 3385, of 2020

R.Gopinathan	...Petitioner in WP.No.1871 of 2020
B.Sundarvel	...Petitioner in WP.No.1874 of 2020
P.Kubendiran	...Petitioner in WP.No.1877 of 2020
A.M.Sankar	...Petitioner in WP.No.1878 of 2020
D.Asokan	...Petitioner in WP.No.1880 of 2020
D.Siriyadurai	...Petitioner in WP.No.1882 of 2020
R.Ravi	...Petitioner in WP.No.1884 of 2020
P.Dhanapal	...Petitioner in WP.No.1886 of 2020
S.Radhakrishnan	...Petitioner in WP.No.1897 of 2020
M.V.Sadasivam	...Petitioner in WP.No.1888 of 2020
S.Devarajan	...Petitioner in WP.No.1889 of 2020
M.Palanisamy	...Petitioner in WP.No.1891 of 2020
P.Jayaraman	...Petitioner in WP.No.1893 of 2020
S.Jothi	...Petitioner in WP.No.1910 of 2020
M.Velmurugan	...Petitioner in WP.No.1914 of 2020
D.Saravanan	...Petitioner in WP.No.1918 of 2020
R.Jeevanandam	...Petitioner in WP.No.1921 of 2020
T.Kathiresan	...Petitioner in WP.No.1924 of 2020

सत्यमेव जयते
Vs.

1.The Secretary to Government,
Government of Tamil Nadu,
Home, Prohibition and Excise (VI) Department,
Secretariat, Fort.St.George,
Chennai.

2.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd (TASMAC),
4th Floor, CMDA Tower-II,
Gandhi Irwin Bridge Road,
Egmore, Chennai - 600 008.

3.The Senior Regional Manager,
Tamil Nadu State Marketing Corporation,
(TASMAC), Brindhavan road,
Alagapuram, Salem - 625 020.

4.The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC),
Thadangam Village,
PMP College near,
Salem-Bangalore national highway,
Dharmapuri District.

5.The General Manager,
Tamil Nadu Ex-Service Men's Corporation Ltd (TEXCO)
No.2, West Monda Street, Srinagar Colony,
Saithapet, Chennai.

1.The Secretary to Government
Government of Tamil Nadu
Home Prohibition and Excise (VI0
Department Secretariat
Fort St.George Chennai

2.The Managing Director Tamil Nadu
State Marketing Corporation Ltd, (TASMAC)
4th floor, CMDA Token-II
Gandhi Irwin Bridge Road
Egmore, Chennai-600 008

3.The Senior Regional Manager
Tamil Nadu State Marketing Corporation
(TASMAC), Brindhavan Road
Alagapuram, Salem

.....Respondents 1 to 3 in
WP.No.Nos.1874,1877,1878
1880,1882,1884,1886,1897,1888
1889,1891,1893,1910,1914,1918
1921 and 1924 of 2020

The District Manager
Tamil Nadu State Marketing Corporation (TASMAC)
Ranipettai District ...4th Respondent in WP.Nos.1874
1877,1878,1880,1882,1888,1893
1910

The District Manager,
Tamil Nadu State Marketing Corporation (TASMAC)
Thadangam Village
PMP College (near) Salem-Bangalore
National Highway,
Dharmapuri District ...4th Respondent in
WP.No.1884/2020,1897/2020
1889,1921,1924/2020,1891/2020

The District Manager
Tamil Nadu State Marketing Corporation (TASMAC)
Kanathampoondi
Thiruvannamalai District ...4th Respondent in WP.No.1886/2020

The District Manager Tamil Nadu State
Marketing Corporation (TASMAC),
Namakkal District ...4th Respondent in WP.No.1914/2020,
1918 of 2020

The General Manager Tamil Nadu
Ex-servie Men's Corporation Limited (TEXCO)
No.2 West Monda Street, Srinagar Colony
Saithapet, Chennai ...5th Respondent in
WP.Nos.1874,1877,1878,1880
1882,1884,1886,1897,1888,1889
1891,1893,1910,1914,1918,1921 &
1924 of 2020

Common Prayer in all WPs:

Petition filed under Article 226 of The Constitution of India
praying for issuance of a Writ of Mandamus, directing the
Respondents to regularize the service of the petitioner as
junior assistant in the 2nd respondent corporation from the date
of initial appointment till retirement in the light of G.O.Ms.
No. 44 dated 12.07.2018 issued by the 1st respondent and
consequently to pay all other monitor benefits on bar with the
other employees of the 2nd respondent corporation.

For Petitioner .. Mr.S.Malaikani
(in all W.Ps)

For R1 .. Mrs.R.Janaki, A.G.P.
(in all W.Ps)

For R2 to R4 .. Mr.Vijay Narayan AG
(in all W.Ps) assisted by
Mr.M.John Kennady

COMMON ORDER

The prayer in all these Writ Petitions in substance is, to grant regularization of the services of the petitioners in 2nd respondent Corporation from the date of their respective initial appointments with all consequential benefits.

2. All these Writ Petitioners are Tamil Nadu Ex.Servicemen registered their names in 5th respondent, Tamil Nadu Ex-Service Men's Corporation Ltd (TEXCO) on their discharge from Defence Force. They were reemployed in the 2nd respondent Corporation on various dates under various categories purely on contractual basis. By virtue of their employment in the 2nd respondent, they are claiming regularization of their services in the 2nd respondent Corporation. Initially, many Writ Petitions that have been filed by such employees, were entertained by this Court and interim orders were passed, protecting their employment pending disposal of the Writ Petitions. However, it appears that subsequently, a learned Judge of this Court, vide order dated 14.2.2020, in a batch of Writ Petitions, viz., W.P. (MD) Nos.1048 of 2020 etc., dismissed all the Writ Petitions having observed as under:

"1. The case of the petitioners is that they have been serving under TASMAC for a considerable time and they are the Ex-Service Man, who have been engaged by the Tamil Nadu Ex-Service Men's Corporation Ltd, which has entered into an agreement with TASMAC for engaging members of TESCO on contract basis.

2. As such, the very foundation of the case of the petitioners that they are the employees of TASMAC is false. When the petitioners herein are not the direct employees of TASMAC, they cannot claim any right of regularization or any other right touching upon their services.

3. Incidentally, similarly placed persons, like the petitioners, had filed writ petitions before the Principal Bench on an identical grievance and the Principal Bench had dismissed the writ petition, vide order dated 20.01.2020, made in W.P.(MD)No.965 of 2020, on the ground that the appointment of these persons was pursuant to an agreement entered between TESCO and TASMAL wherein their service period is determined and nature of their employment is purely contractual.

4. The Principal Bench had also placed reliance on the decision of the Hon'ble Supreme Court in the case of "GRIDCO Limited and another Vs. Sri Sadananda Doloi and others" reported in 2012 2 MLJ 998 for the purpose that the employment under contract basis cannot be subjected to Judicial review and the said decision has been followed by a Division Bench of this Court, in the case of "The Manager (Administration and Personnel) Vs. Dr. Kaushik Ghosh" reported in 2020 1 LW 97.

5. In the light of the observations made in the order and also since the Principal Bench has rejected the claim of the identical placed persons, this Court cannot and does not intend to take any contrary view. Accordingly, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

3. The learned Advocate General appearing for the Corporation would submit that the learned Judge of this Court, sitting in Madurai Bench, has dismissed all the Writ Petitions as extracted above by following a decision of the Principal Bench which in turn followed a decision of the Hon'ble Supreme Court as quoted by the learned Judge in his order. The learned Advocate General would also submit that recently, the Writ Appeals filed against the dismissal of the above batch of Writ Petitions, were also dismissed by a Division Bench of Madurai Bench of this Court. He would therefore, submit that the present Writ Petitions also need to meet the same fate as in the case of other Writ Petitions and urge this Court to dismiss all the Writ Petitions by following the above decision.

4. This Court, after going into the materials and also on considering the submissions made by the learned Advocate General, is of the view that the present Writ Petitions need not

be entertained any further as the claim of the writ petitioners cannot be countenanced either in law or on facts. The interim orders passed by this Court in these Writ Petitions, are therefore, liable to be vacated forth with.

5. Accordingly, all the Writ Petitions stand dismissed as devoid of merits. No costs. Consequently, all connected WMPs are closed and the interim orders passed therein, are hereby vacated.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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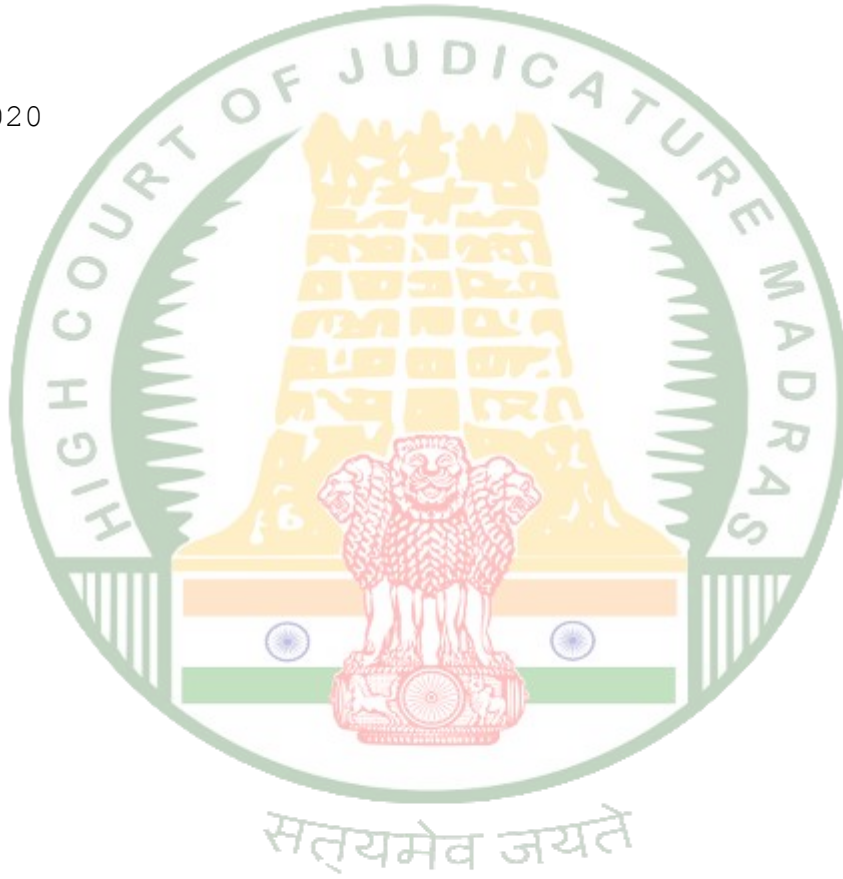
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- 6.The District Manager Tamil Nadu State Marketing
Corporation(TASMAC) RANIPETTAI DISTRICT
- 7.The District Manager Tamil Nadu Marketing
Corporation(TASMAC) Kanathampoondi, Tiruvannamalai District

8.The District Manager,
Tamil Nadu State Marketing Corporation(TASMAC)
Namakkal District

+18 ccs to Mr.S.Malaikani Advocate sr22415
+1 cc to Mr.JohnKennady Advocate sr22510
+1 cc to Mr.S.Sivashanmugam Advocate sr22766

W.P.Nos.1871 of 2020 etc..

rjl(co)
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