



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

W.P.Nos.20821,20822,20823,20571,20572 and 20573 of 2008
and M.P.Nos.1,1,1,1,1 and 1 of 2008

N.Nagarajan ... Petitioner in W.P. 20821 of 2008

C.Jayaraman Petitioner in W.P. 20822 of 2008
A.Duraisamy Petitioner in W.P. 20823 of 2008
T.Sivan Petitioner in W.P. 20571 of 2008
V.Parameswaran Petitioner in W.P. 20570 of 2008
N.Krishnan Petitioner in W.P. 20573 of 2008

Vs.

1.The State of Tamilnadu
rep. By its Special Commissioner and Secretary
to Government, Animal Husbandry Dairying and
Fisheries Department
Secretariat, Chennai-9

2.The Director of Veterinary Services
O/o the Directorate of Veterinary Services
Central Office Buildings
Chennai-6

... Respondents in all the cases

PRAYER:

These Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus to call for the records connected in
(i) Roc.No.39906/RR1/2001, (WP.No.20821 of 2018),
(ii) Roc.No.40371/RR1/2001, (W.P.No.20822 of 2008),
(iii) Roc.No.40371/RR1/2001-5, (W.P.No.20823 of 2008),
(iv) Roc.No.31504/RR1/2001, (W.P.No.20571 of 2008),
(v) Roc.No.40371/RR1/2001-3, (W.P.No.20570 of 2008),
(vi) Roc.No.39905/RR1/2001, (W.P.No.20573 of 2008),
respectively dated 05.09.2001 of the 2nd respondent and Lr(D).
No.130/AH7/2007 dated 22.04.2008 (W.P.No.20821,20822,20823/2008)
Lr.No.66 dated 27/02/2008 (W.P.No.20571/08/to20573/08)
respectively of the 1st respondent and quash the same in so far
as the petitioner is concerned and direct the respondents to



regularise the service of the petitioner on completion of five years of service as per the Government orders with all benefits.

For Petitioners : Mr.G.Elanchezhiyan

For Respondents : Mr.C.Selvaraj
Government Advocate

C O M M O N O R D E R

Petitioners were sponsored by the Employment Exchange pursuant to the letter sent by Superintendent District Animal Husbandry Farm, Ooty in Na.Ka.No.7830/C1/82 dated 02.12.1982. They were appointed as casual labourers with effect from 07.01.1983 by order of the Superintendent dated 14.12.1982. Thereafter, they continued to be in employment without regularization and hence they approached the Tamilnadu Administrative Tribunal for regularization. The Tribunal by its order dated 31.01.1995 directed regularization of the petitioners in service. Pursuant to the same, proceedings in Na.Ka.No.5408/A2/94 of the 2nd respondent dated 07.10.1995, they were appointed as Animal Husbandry Assistants and their services were regularized with effect from 31.01.1995. Thereafter, the petitioners sought for regularization from the date of their initial appointment. However, it was rejected by the respondents by order dated 05.09.2001 and 22.04.2008. Aggrieved over the same, the present writ petitions.

2. Learned counsel for the petitioner would contend that the petitioners were continuously employed from 07.01.1983. As per G.O.Ms.No.52, Finance Department dated 14.01.1997, whoever completes five years of service shall be taken into regular service and Heads of the Department should send the proposals on first January of each year for bringing these contingent workers who have completed five years of service into regular establishment. The Deputy Director of Agriculture by its order dated 24.07.1980 regularized the contingent employees. Thereafter, Government in G.O.Ms.No.12, Agricultural Department dated 02.01.1985 directed to regularize the casual labourers sponsored by Employment Exchange in the vacancy arising in the post of Animal Husbandry Assistant after completion of five years of service. Accordingly, several persons were regularized in the year 1988. Whereas, the petitioners were regularized only in 07.10.1985 but with effect from 31.01.1985 from the date of order passed by the Tamilnadu Administrative Tribunal. The other departments regularized the services of the casual labour from the date of initial appointment and non-extension of the benefit to the petitioners is violative of Art. 14 and 16 of the Constitution of India.



3. Relying on counter, learned Government Advocate would contend that G.O.Ms.No.52, Finance Department would apply to employees who were in contingent services, when brought to regular establishment on completion of five years. Whereas, the petitioners were not contingent employees and therefore G.O.Ms.No.52 will not apply to them. Secondly, G.O.Ms.No.12 apply only to candidates who were engaged as Animal Husbandry Assistant and regularized in service. This will not apply to the petitioners who were engaged as casual labourers. Petitioners were regularized in service from the date of order of the Tribunal pursuant to the appointment made to them on 07.10.1995. Therefore, by no stretch of imagination they could seek regularization from the date of their initial appointment.

4. I heard the rival submissions.

5. From the reading of G.O.Ms.No.52 dated 14.01.1977, it is noted that the contingent employees who are needed for working normal of the Government and who have completed five years of service were brought into regular establishment. Further, a direction was given to all the Head of the Departments to send proposals on first January of each year to bring into the regular appointments the contingent employee who completed five years of service as on first January. Accordingly, the Agriculture Department has also regularized non provincialised staff into regular establishment in the time scale of pay. Like wise, the petitioners were sponsored through the employment exchange were appointed as casual labourers in Animal Husbandry Department. Therefore the above said G.O.Ms.No.52 will be applicable to the petitioners also. When an order was passed by the Tribunal on 31.01.1995, they were appointed as Animal Husbandry Assistant and their services were regularized with effect from 31.10.1995. The unassailable fact remains that the casual labourers were regularized as Animal Husbandry Assistants with effect from 31.10.1995. A reading of G.O.Ms.No.12 dated 02.01.1985 clearly specifies that whenever vacancy arises, the casual labour sponsored by the Employment Exchanges should be given promotion as Animal Husbandry Assistant and on completion of services as Animal Husbandry Assistant for five years, they should be regularized in service.

6. In the instant case, it is not in dispute that the petitioners were sponsored by Employment Exchange and were appointed on 14.12.1992 as casual labourers in Animal Husbandry Department. Their appointment taken effect from 07.10.1983. Even though they were selected as daily wage workers through Employment Exchange no specific post was assigned to them. The respondents have utilized the services of the petitioners to meet out the day to day routine as well as routine work in the District Livestock Farm, Ooty. It goes without saying that the



petitioners would have been engaged as Animal Husbandry Assistants also. That apart, mostly the work in the District Livestock Farm would be of doing the work of Animal Husbandry Assistant. The impugned order passed by the respondents does not specify as to what type of work was assigned to the petitioners. In the absence of any specific posts, the usual practice of engaging employees sponsored through Employment Exchanges should be considered that they were working only as Animal Husbandry Assistants. For that purpose only, G.O.Ms.12, specifically states that those who are sponsored through Employment Exchanges should be promoted as Animal Husbandry Assistants on temporary basis and on completion of five years of service in regular capacity. Admittedly, the petitioners were appointed with effect from 07.01.1983. They would be eligible for being appointed as temporary Animal Husbandry Assistants whenever vacancies arose in the post. The respondents have not promoted or appointed the petitioners when the vacancy arose in the post of Animal Husbandry Assistant. On the other hand petitioners were forced to approach the Tribunal from the year 1993 onwards for regularization. From the date of the G.O.Ms.No.12 dated 02.01.1985, the applicant should have been considered for regularization on completion of five years of service i.e to say from 1990. Therefore, their regularization of service shall at least count from the year 1990 onwards. But for the orders of the Tribunal they would not have been regularized even in 1995. Therefore, the delay in regularizing the petitioners in accordance with G.O.Ms.No.12 dated 02.01.1985 is attributable to the respondents. Had the respondents acted promptly the petitioners would have been regularized as early as in the year 1990 when the vacancy arose in the post of Animal Husbandry Assistant. Therefore, the prayer sought for by the petitioners to regularize them on completion of five years of service is correct.

7. The contention of the learned counsel for the petitioner that in the case of similarly placed persons, the Government in G.O.Ms.No.161, Rural Development Department dated 26.06.2000 has regularized a daily wager from the date of his initial appointment on completion of five years of service. In the light of Government order, the petitioners are entitled to similar treatment otherwise it will violate Art. 14 and 16 of Constitution of India.

8. Learned counsel would rely on the judgment of this Court in *Lingam Vs. State of Tamilnadu* and Ors in W.P.No.4823 of 2000 dated 23.09.2008, *P.Gnana Pragasam vs. State of Tamilnadu* and Ors, in W.P.(MD)No.10915 of 2007 dated 03.12.2012 and *F.R.Arputham Vs. The Registrar, Tamil University* and another in W.P.No.26464 of 2005 dated 12.08.2010 in support. In all the above cases, this Court had directed regularization of services



of the daily wages from the date of their initial appointment. Those judgments in principle will apply to the case of the petitioners also. Accordingly, the prayer of the petitioners to regularize their service on completion of five years from the date of their initial appointment in accordance with G.O.Ms.No.12 dated 02.01.1985 is valid. In view of the same, the impugned order passed in Roc.No.39906/RR1/2001 dated 05.09.2001 of the 2nd respondent and Lr(D).No.130/AH7/2007 dated 22.04.2008 of the 1st respondent stands set aside.

Writ petitions are ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Special Commissioner and
Secretary to Government,
Animal Husbandry Dairying and
Fisheries Department
State of Tamilnadu
Secretariat, Chennai-9
2. The Director of Veterinary Services
O/o the Directorate of Veterinary Services
Central Office Buildings
Chennai-6

+6ccs to Mr.G.Elanchezhian, Advocate, S.R.No.31297,31298
+1cc to the Government Pleader, S.R.No.31297

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GPL(CO)
CT/06/09/2021