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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.9060 of 2020

and

W.M.P.Nos.11027, 11028 & 11029 of 2020

(Through Video Conferencing)

1.C.Sekar

2.S.Saritha

3.M.Usha

...Petitioners

Vs.

1. The Government of Tamil Nadu,
Department of Home,
Rep. by its Secretary,
Secretariat, Chennai - 9.

2. The Director,
Fire and Rescue Services,
No.17, Rukamani Lakshmipathy Road,
Egmore, Chennai - 8.

3. The District Officer,
Fire and Rescue Services,
Dharmapuri, Dharmapuri District.

4. Fire and Rescue Services Station,
Rep. by its Station Officer,
Pappireddipatti,
Dharmapuri District.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records from the third respondent in connection with the impugned order passed in Na.Ka.No.556/A1/2020 dated 30.04.2020 and quash the same in so far as the petitioners are concerned and consequently direct the respondents to extend the time scale of Rs.1300 - 300 + 300 GP to the petitioners.

For Petitioners : M/s.Paul and Paul

For Respondents : Mr.V.P.R.Elamparithi, G.A



ORDER

This Writ Petition has been filed by the petitioners for issuance of a Writ of Certiorarified Mandamus, to call for the records from the third respondent in connection with the impugned order passed in Na.Ka.No.556/A1/2020 dated 30.04.2020 and quash the same in so far as the petitioners are concerned and consequently direct the respondents to extend the time scale of Rs.1300 - 300 + 300 GP to the petitioners.

2. The case of the petitioners is that they were appointed to the post of Toilet Cleaner, Cleaner and Water Taker on 28.08.2017 in the fourth respondent on a temporary basis by the third respondent. Subsequently, based on the decision of the third respondent, the fourth respondent had terminated the services of the petitioners and therefore, the petitioners have filed this present Writ Petition.

3. It is case of the petitioners that the respondents have wrongly terminated the service of the petitioners even though few others like petitioners have been allowed to continue in service in terms of G.O.Ms.No.49, Personnel and Administrative Reforms Department, dated 14.05.2002.

4. The learned counsel for the petitioners submits that an interim order dated 15.07.2020 was passed by this Court and the petitioners have been allowed to continue in the services of the respondents. He further submits that the respondents are not justified in citing G.O.Ms.No.14, Home (Police - 17) Department dated 05.01.2018. It is submitted that though the petitioners were appointed on temporary basis, G.O.Ms.No.14, Home (Police - 17) Department dated 05.01.2018 also makes it clear that Director of Fire and Rescue Services Department, was instructed to follow the orders issued in G.O.Ms.No.49, Personnel and Administrative Reforms Department, dated 14.05.2002 in future, since among the basis of services which are classified under Part - D, the posts should be filled up in the basis services (except Office Assistants) by contract and outsourcing as per the aforesaid G.O.

5. The learned counsel for the petitioners further submits that though G.O.Ms.No.49, Personnel and Administrative Reforms Department, dated 14.05.2002 was issued, 7 different persons have been appointed, whereas, the petitioners have been left out by the respondents. He further submits that the petitioners are also entitled to continue and entitled to time scale of pay as has been prayed for.

6. Defending the impugned order, the learned Government Advocate for the respondents submits that the said Government



Order is very clear. He submits that vide G.O.Ms.No.49, Personnel and Administrative Reforms Department, dated 14.05.2002 was clarified that the service of the persons like petitioners were to be outsourced and therefore the persons like petitioners cannot claim any right to continue in service. He further submits that the petitioners were appointed on temporary basis and therefore, this Writ Petition was misconceived that the respondents were directed to comply with G.O.Ms.No.49, Personnel and Administrative Reforms Department, dated 14.05.2002 vide G.O.Ms.No.14, Home (Police - 17) Department dated 05.01.2018.

7. I have heard the learned counsel for the petitioners and the respondents and perused the Government Orders. By G.O.Ms.No.14, Home (Police - 17) Department dated 05.01.2018, it has been clarified as follows:-

3. The Director, Fire and Rescue Services Department is also instructed to follow the orders issued in G.O.(Ms) No.49, Personnel and Administrative Reforms Department, dated 14.05.2002 in future, since among the basic services which are classified under Part-D, the posts should be filled up in the basic services (except Office Assistants) by the contract and outsourcing as per above said Government order.

8. However, at least 7 different persons like petitioners who are working for more than 3 years were allowed to continue in service on temporary basis. They were allowed to work after the issue of G.O.Ms.No.49, Personnel and Administrative Reforms Department, dated 14.05.2002. Therefore, the petitioners deserve to be treated on par with the other 7 employees who were inducted on temporary basis after the issue of G.O.Ms.No.49, Personnel and Administrative Reforms Department, dated 14.05.2002. Therefore, the impugned order passed by the third respondent is liable to be quashed and stands quashed.

9. This Writ Petition is allowed with the consequential relief and direction. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



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To

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1. The Secretary,
Department of Home,
The Government of Tamil Nadu,
Secretariat,
Chennai - 9.
2. The Director,
Fire and Rescue Services,
No.17, Rukumani Lakshmipathy Road,
Egmore,
Chennai - 8.
3. The District Officer,
Fire and Rescue Services,
Dharmapuri,
Dharmapuri District.
4. The Station Officer,
Fire and Rescue Services Station,
Pappireddipatti,
Dharmapuri District.

+1cc to M/s.Paul and Paul, Advocate, S.R.No.41025
+1cc to the Government Pleader, S.R.No.41075

W.P.No.9060 of 2020
and
W.M.P.Nos.11027, 11028
& 11029 of 2020

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NSK 23/09/2021