



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

AND

THE HONOURABLE MRS.JUSTICE **S.ANANTHI**

**W.A. (MD) Nos.334 of 2019 &
1521 to 1526 of 2018**

and

**C.M.P. (MD) Nos.2661, 2662 of 2019 &
10846 to 10857 of 2018**

**Against WP (MD) Nos.886 of 2017 & 24976/2016, 884/17, 6078/17,
6079/17, 6080/17 and 6081 of 2017**

S.Shanmugam	... Appellant/2 nd Respondent in WA(MD).334/19
P.K.Janarthanan	... Petitioner in WA(MD). 1521 of 2018
A.Gopimuthukrishnan	... Petitioner in WA(MD). 1522 of 2018
G.Kannan	... Petitioner in WA(MD). 1523 of 2018
A.Sivanupandian	... Petitioner in WA(MD). 1524 of 2018
S.Sudalaiyandi	... Petitioner in WA(MD). 1525 of 2018
S.Selvakumar	... Petitioner in WA(MD). 1526 of 2018

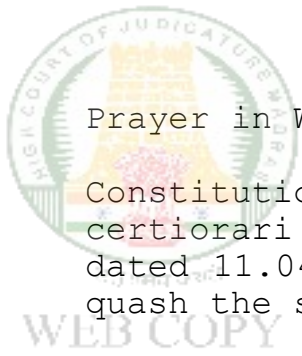
Vs.

1.The Presiding Officer, Labour Court, Tirunelveli.	... 1 st Respondent/1 st Respondent (in all Cases)
2.The Joint Director, Rural Development and Family Welfare, Tirunelveli @ Tenkasi, Tirunelveli District.	... 2 nd Respondent/Petitioner (in all Cases)

PRAYER: Writ Appeals are filed under Clause 15 of the Letters Patent as against the order dated 19.03.2018 made in W.P.(MD)No.886 of 2017, 24976 of 2016, 884 of 2017, 6078 of 2017, 6079 of 2017, 6080 of 2017 and 6081 of 2017 respectively.

Prayer in WP(MD). 886 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the impugned award dated 11.04.16 (received on 14.07.16) passed by the 1st Respondent in I.D.No. 58/2015 and quash the same as illegal.



Prayer in WP(MD). 24976 of 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of certiorari calling for the records relating to the impugned award dated 11.04.2016 passed by the 1st respondent in I.D.No.66/2015 and quash the same as illegal.

Prayer in WP(MD). 884 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the impugned award dated 11.04.16 (received on 14.07.16) passed by the 1st Respondent in I.D.No. 59/2015 and quash the same as illegal.

Prayer in WP(MD). 6078 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the order dated 11.04.2016 made in I.D.No.62 of 2015 on the file of the principal Labour Court, Tirunelveli passed by the 2nd respondent herein and quash the same.

Prayer in WP(MD). 6079 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the order dated 11.04.2016 made in I.D.No.64 of 2015 on the file of the principal Labour Court, Tirunelveli passed by the 2nd respondent herein and quash the same.

Prayer in WP(MD). 6080 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the order dated 11.04.2016 made in I.D.No.65 of 2015 on the file of the principal Labour Court, Tirunelveli passed by the 2nd respondent herein and quash the same.

Prayer in WP(MD). 6081 of 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari calling for the records relating to the order dated 11.04.2016 made in I.D.No.67 of 2015 on the file of the principal Labour Court, Tirunelveli passed by the 2nd respondent herein and quash the same.

For Appellant

in W.A. (MD) 334/19

: Mr.G.Sankaran for Mr.K.Gokul

For Appellants

<https://hcservices.ecourts.gov.in/hcservices/> in WP(MD) 1521 to 1526/18

: Mr.G.Thalaimutharasu



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For Respondents
In all WAs

: Court - R.1

: Mr.K.P.Krishnadoss
Special Government Pleader
for R.2

COMMON JUDGMENT

(Judgment of the Court was delivered by **M.M.SUNDRESH, J.**)

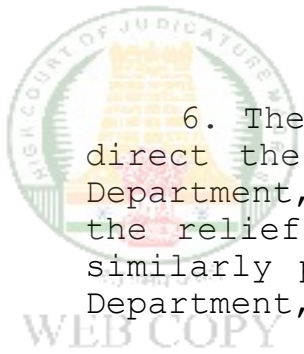
The issue before us lies in a very narrow campus. The appellants in these appeals were appointed through outsourcing. Against the termination made, they approached the Labour Court. Awards were passed in their favour. These awards were put into challenge before the learned Single Judge and the learned Single Judge allowed the writ petitions filed. As against the same, the present appeals are filed.

2. Mr.G.Sankaran and Mr.G.Thalaimutharasu, learned Counsel appearing for the appellants submitted that among the similarly placed employees, one set of them raised Industrial Disputes and the other filed Writ Petitions before this Court. In the writ petitions filed, they obtained orders in their favour. The writ appeals filed against the same was also ended in their favour. Thereafter, Special Leave Petitions have been filed, which were also dismissed. The orders passed have given effect to for such of those persons, who filed the writ petitions, consisting of 27 persons. Accordingly, a Government Order was passed in G.O.Ms.No.325, Health and Family Welfare (C1) Department, dated 11.09.2007, regularizing the outsourced employees. Therefore, the same relief will have to be given to the appellants by directing the second respondent to pass appropriate orders.

3. The learned Counsel appearing for the appellants further submitted that though in this proceedings, the Government of Tamil Nadu, Rep. by the Secretary, Health and Family Welfare Department, Secretariat, Chennai, is not a party, inasmuch as the second respondent is functioning under the said authority, appropriate directions may be issued in this regard.

4. Mr.K.P.Krishnadoss, learned Special Government Pleader appearing for the second respondent submitted that though the earlier writ petitions attained finality leading to the Government Order passed in G.O.Ms.No.325, Health and Family Welfare (C1) Department, dated 11.09.2007, the case of the appellants will have to be considered afresh.

5. We have paid our anxious consideration to the rival submissions and to the materials placed on record.



6. The appellants seek a limited prayer before us, which is, to direct the Secretary to the Government, Health and Family Welfare Department, Secretariat, Chennai, to consider their case and extend the relief, as granted to 27 others, which according to them are similarly placed, in G.O.Ms.No.325, Health and Family Welfare (C1) Department, dated 11.09.2007.

7. For the aforesaid exercise, neither the second respondent nor the Government of Tamil Nadu, Rep. by the Secretary, Health and Family Welfare Department, Secretariat, Chennai, will have any objection. Therefore, without expressing anything on the merits of the claim, we are inclined to direct the said authority to consider the case of the appellants and grant the relief, as given to the others in G.O.Ms.No.325, Health and Family Welfare (C1) Department, dated 11.09.2007, provided the appellants are similarly placed. After all, a welfare State is expected to be fair to the similarly placed employees, which is applicable even to the relief granted.

8. In such view of the matter, we call upon the Secretary to the Government, State of Tamil Nadu, Health and Family Welfare Department, Secretariat, Chennai, to look into the issue and pass appropriate orders, in the light of the Government Order passed in G.O.Ms.No.325, Health and Family Welfare (C1) Department, dated 11.09.2007, after satisfying that the appellants are similarly placed to that of those persons, who have been given the benefit thereunder. Appropriate orders in this regard will have to be passed within a period of twelve weeks from the date of receipt of representation from the appellants. The appellants are directed to give such representation within a period of two weeks from the date of receipt of a copy of this judgment.

9. We once again make it clear that we have not expressed anything on the merits of the matter and the Secretary to the Government, Health and Family Welfare Department, Secretariat, Chennai, is to take a decision in this regard, after satisfying himself that the appellants are similarly placed to that of those persons, who have been given the benefit in the said Government Order.

10. With the above directions, these writ appeals stand disposed of. No costs. Consequently, all the connected miscellaneous petitions stand closed.

Sd/-

Assistant Registrar(CS-II)

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/ /2021

Sub Assistant Registrar(CS)



gk

To

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.The Joint Director,
Rural Development and Family Welfare,
Tirunelveli @ Tenkasi,
Tirunelveli District.

Copy to

The Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat,
Fort St.George,
Chennai - 600 009.

+4 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-8383[F] dated
03/03/2021)

+1 CC to M/s.SPL GP (SR-8422 & 8433[F] dated 03/03/2021)

+1 CC to M/s.T.CHANDRA SEKARAN, Advocate (SR-8593[F] dated
04/03/2021)

**W.A. (MD) Nos.334 of 2019;
1521 to 1526 of 2018
02.03.2021**

SSS(CO)
TR(17.03.2021) 5P 10C