



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.10056 & 10082 of 2019

and

W.M.P. (MD) Nos.7827, 7828, 7849 & 7850 of 2019

W.P. (MD) No.10056 of 2019:-

G.Shanthi Subbulakshmi

... Petitioner

-vs-

1.The Principal Chief Conservator of Forest
and Chief Project Director,
Vijayamangalam, Medambakkam,
Chennai.

2.The Conservator of Forests,
Virudhunagar Circle, Virudhunagar.

3.The Wildlife Warden,
Grizzled Squirrel Wildlife Sanctuary,
Srivilliputhur, Virudhunagar District.

4.The Forest Extension Officer,
Virudhunagar District @ Srivilliputhur,
Virudhunagar.

... Respondents

W.P. (MD) No.10082 of 2019:-

R.Saravanan

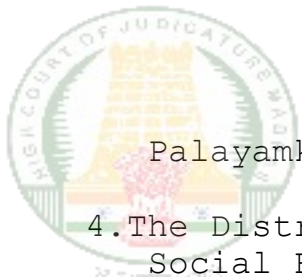
... Petitioner

-vs-

1.The Principal Chief Conservator of Forest
and Chief Project Director of Tamil Nadu,
Vijayamangalam, Medambakkam, Chennai.

2.The Principal Chief Conservator of Forests,
(Head of Forest Force),
1, Jennys Road, Panagal Building,
Saidapet, Chennai.

3.The Chief Conservator of Forests,
Tirunelveli Circle,
N.G.O. "A" Colony,



Palayamkottai, Tirunelveli.

4.The District Forest Officer,
Social Forest and Extension Division,
Tirunelveli District, Tirunelveli.

... Respondents

Common Prayer:- Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the 2nd respondent in proceeding TBGP7/680/2019 dated 27.03.2019 and quash the same in so far as the post of Technical Assistant alone is concerned and to direct the respondents herein to continue the services of the petitioners as Technical Assistants in Tamilnadu Bio Diversity Conservation and Greening Project on the basis of his service with all attendant and monetary benefits.

In both W.Ps.

For Petitioner	:	Mr.K.S.Muthu
For Respondents	:	Mr.P.Thilak Kumar, Government Pleader assisted by Mr.M.Ramesh, Government Advocate

COMMON ORDER

These writ petitions are filed challenging the order of disengagement on contract basis issued by the respective 2nd respondent in proceedings dated 27.03.2019.

2.The writ petitioners were appointed on contract basis for a period of one year under the scheme. So long as the scheme was in force and under implementation, the contract services were extended periodically. Once the scheme came to an end, the contract employees were ousted from service, in view of the fact that they were appointed through outsourcing.

3.This Court considered similar issues of contract employment in the very same Forest Department in W.P.(MD) No.4871 of 2013 and an order was passed on 11.06.2019, relevant paragraphs of which read as follows:-

"2.The learned counsel for the petitioners states that the petitioners were initially engaged as Computer Operator on daily wages basis during the year 2001 and they are working continuously for more than 11 years. The petitioners state that they are fully qualified for appointment to the post of Computer Operator and therefore they are entitled to be regularised and permanently absorbed in the sanctioned



posts. The Government issued G.O.Ms.No.276, Environment & Forest (FR-6) Department, dated 13.12.2012 issuing Operation manual for the Project management unit of "Tamil Nadu Biodiversity Conservation and Greening Project". Accordingly, the staffs are engaged on contractual basis as well as the employment of contractual staff through outsourcing. The contractual staff of the Project Management Unit / Divisional Management Unit shall be recruited from two sources namely by engaging the retired staff from the Tamil Nadu Forest Department or through open market through outsourcing. The said amendment made in the operation manual of Project management Unit of Tamil Nadu Biodiversity Conservation and Greening Project is under challenge in the present writ petition. 3.The writ petitioners were engaged on daily wage basis. Their initial appointment was not in accordance with the recruitment Rules in force. The writ petitioners were engaged on daily wages basis to work under the project namely Tamil Nadu Biodiversity Conservation and Greening Project. Thus, the very claim set out in the writ petition is untenable. The writ petitioners were not appointed in accordance with the recruitment Rules in force nor they were appointed by the competent authority by following the selection process. In fact, these writ petitioners were engaged in a project to perform the duties of a Computer Operator and therefore, the petitioners cannot claim the benefit of regularization or permanent absorption nor they are entitled to challenge the mode of selection amendment in the impugned G.O.Ms.No.276, Environment & Forest (FR-6) Department, dated 13.12.2012. 4.The counter affidavit filed by the respondents also reveals that the Tamilnadu Biodiversity Conservation and Greening Project is assisted with the funds of Japan International Co-operation Agency for the duration of 8 years from the year 2011-2012 to the year 2018-2019. In the formulation and approval of project itself, policy decision was taken to implement the project with a implications and objective and implementation of the project. The petitioners, who are appointed by the respective Divisional Management Unit of the project, cannot challenge the Government authority in the mode of contractual appointment. Admittedly, the petitioner's are not governed by any service rules and there is no post of Technical Assistant/ Data Entry Operator governed by any rules in the Forest



Department. The engagement of Technical Assistants / Data Entry Operator was decided purely on casual contract basis to utilize the service and knowledge as required from time to time. The petitioners who were engaged on contractual basis cannot have right of continuance, which is not provided and such continuance which is not provided and such continuance will defeat the object of the project. The factual basis in respect of the project are also enumerated by the respondents.

5. Admittedly, the writ petitioners were not appointed as per the Rules in force. The benefit of regularization and permanent absorption or continuance of service cannot be granted in violation of the legal principles that are settled by the Hon'ble Supreme Court in the case of the Secretary, State of Karnataka and others .vs. Umadevi(3) and others reported in (2006) 4 Supreme Court Cases 1. In respect of such contractual appointments / daily wage engagements in a project, the employees who accepted the terms and conditions of such engagement cannot go back and claim permanency or regularization contrary to the terms of appointment.

6. Thus, this Court is of the opinion that the very amendment made in G.O.Ms.No.276, Environment & Forest (FR-6) Department, dated 13.12.2012, is a policy decision of the Government to engage the employees on contractual basis and through outsourcing and such a policy decision taken to complete a special project cannot be set to be irregular nor the petitioners can claim continuous engagement in a project which is temporary in nature.

7. Thus, the writ petitioners have not established any acceptable legal grounds for the purpose of granting the relief sought for in the present writ petition and consequently this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

4. In view of the fact that the petitioners are also similarly placed contract employees and on expiry of the period of contract, the services are dispensed with, there is no reason whatsoever to consider the relief sought for in the present writ petitions, as the impugned order is in consonance with the principles established. It is made clear that if at all the salary dues are to be paid to these employees, the respondents are directed to settle the salary which are due to these petitioner without causing any undue delay.



5. Accordingly, these Writ Petitions are dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

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To

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and Chief Project Director of Tamil Nadu,
Vijayamangalam, Medambakkam, Chennai.
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(Head of Forest Force),
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6. The Chief Conservator of Forests,
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Palayamkottai, Tirunelveli.
7. The District Forest Officer,
Social Forest and Extension Division,
Tirunelveli District, Tirunelveli.

+1 CC to M/s.SPL GP (SR-6843[F] dated 17/02/2022)

W.P. (MD) Nos.10056 & 10082 of 2019
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KS (CO)

KB(04.03.2022) 5P 9C