



W.P(MD)Nos.12768 of 2022 etc batch.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.12768, 13008, 13009, 13010, 11785, 11786 & 12771 of 2022
and

W.M.P.(MD)Nos.9056, 9057, 14330, 9231, 13973, 9234, 13827, 9237, 13987,
8381, 8383, 11060, 8385, 8387, 11040, 9058, 9061 & 14388 of 2022

In W.P.(MD)No.12768 of 2022

S.Sujatha

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Rural Development and Panchayat Raj Department,
Secretariat, Fort St.George,
Chennai-600 009.
- 2.The Director of Rural Development and Panchayat Raj,
Panagal Maligai,
4th & 5th Floor, Abdul Razzak Street,
Saidapet, Chennai.
- 3.The District Collector,
Madurai District,
Madurai.
- 4.The District Collector,
Trichy District,
Trichy.



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5.The Block Development Officer (B.P),
Panchayat Union, Usilampatti,
Madurai.

6.The Block Development Officer (B.P),
Thiruvembur Panchayat Union,
Thiruvembur, Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of termination issued by the fourth respondent herein in Se.Mu.Tha4/2374/2021-5, dated 14.06.2022 and quash the same as illegal and consequently, direct the fourth respondent to reinstate the petitioner in service as Record Clerk with continuity of service along with back wages forthwith.

For Petitioner : Mr.AL.Kannan

For R1 to R4 : Mr.J.K.Jeyaseelan
Government Advocate

For R5 & R6 : Mr.M.Ramesh Arumugam

COMMON ORDER

Heard the learned counsel appearing appearing for the writ petitioners and the learned Government Advocate appearing for the respondents 1 to 4 and the learned counsel appearing for the respondents 5 & 6.



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2. The writ petitioners were appointed as Work Assistants in various local bodies prior to 1997. They were paid only daily wages. Later, though the nature of work did not undergo any alteration, they were formally treated as contract employees. The arrangement was that the petitioners will work for the local bodies, but payment will be made by the local bodies through the principal contractors. Since the petitioners had put in such service for several years, the department took up their cases.

3. Verification exercise was undertaken by the Commissioner of Rural Development and Panchayat Raj Department all over Tamil Nadu. It is relevant to note here that the Hon'ble Minister for Municipal Administration and Rural Development made a statement in the assembly proposing regularization of those who have been engaged in daily wages work for the local bodies since 1997. A detailed report was submitted and after considering the same, the Government issued G.O.Ms.No.69, Rural Development and Panchayat Raj (E3) Department, dated 06.08.2012 regularizing the services of 184 such Work Assistants. In fact, G.O contained annexure and the names of the writ petitioners figured therein. Pursuant to the aforesaid G.O., the respective District Collectors issued proceedings for appointing the petitioners herein as Record Clerks. The places of their posting were also duly identified. In terms



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of the proceedings issued by the respective District Collectors, the petitioners herein joined in the notified places. Their probation was also declared in due course. They had thus completed almost 12 years as Record Clerks. They have been receiving their salary and increments during this period. While so, show cause notice was issued to them calling upon them to explain as to why they should not be ousted. The petitioners offered their explanation. Thereafter, the impugned orders came to be passed terminating the petitioners from service. Challenging the same, these writ petitions have been filed.

4. The learned counsel appearing for the petitioners took me through the averments set out in the respective affidavits and called upon this Court to set aside the impugned orders and direct their reinstatement with continuity of service.

5. The respondents have filed counter affidavits and the learned Government Advocate took me through its contents. The learned Government Advocate submitted that the respondents were directed to take action following the interim orders of this Court made in W.P.(MD)No.11418 of 2017 on 09.01.2019 and 30.01.2019. The learned Additional Government Pleader would submit that since the impugned termination orders are a direct outcome of writ proceedings, these writ petitions are not maintainable. He pressed for dismissal.



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6. I carefully considered the rival contentions and went through the materials on record.

7. Let me examine the first contention raised by the learned Government Advocate that the respondents were nudged into initiating the impugned action. W.P(MD)No.11418 of 2017 was filed by one Mr.Muruganandam seeking absorption in terms of G.O.Ms.No.69, Rural Development and Panchayat Raj (E3) Department, dated 06.08.2012. The said writ petition was disposed of on 21.11.2019 with a direction to the authorities to consider the case of the said Muruganandam. Before that, on 09.01.2019 the following interim direction was passed:-

“The learned Additional Government Pleader is directed to produce the NMR (Non-Muster Roll) register relating the work assistants in Srivaikundam Panchayat Union for the period between 1996 and 2006 by 28.01.2019.

The District Collector, Tuticorin is also directed to file an affidavit as to the action taken with reference to the in-eligible persons who were regularised as per G.O.Ms.NO.38, dated 03.05.2013 as found in Page-28 of the Type Set.”

On 30.01.2019, the following interim direction was passed:-

“14. By an order dated 28.01.2019, I have required the Director of Rural Development to explain as to why no action has been taken against those employees who according to the respondents having been regularized improperly by invoking G.O.Ms.No.38, Rural Development and Panchayat Raj (E5)



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Department.

15. Today, the learned Additional Government Pleader has also produced the proceedings of the Director dated 29.01.2019 stating that the District Collector, Tuticorin, has been addressed to take action against those persons, who had been improperly regularised in Tuticorin District. No details are available regarding the other Districts.

16. The second respondent viz., the Commissioner, Rural Development and Panchayat Raj Department, is directed to take up the matter on top priority and take action against those persons who according to the Government were improperly regularised under G.O.Ms.NO.38, Rural Development and Panchayat Raj (E5) Department, dated 03.05.2013. The action so taken shall not be confined only to those persons who are regularised but the proceedings also been initiated against those persons, who are responsible for such improper regularization. The Commissioner, Rural Development and Panchayat Raj Department, Panagal Building, Saidapet, Chennai-600 015, is directed to file a report on such action taken by 11.02.2019.”

8. A mere look at the aforesaid interim direction would show that the order of a learned Judge focused only on G.O.Ms.NO.38, Rural Development and Panchayat Raj (E5) Department, dated 03.05.2013. The persons who were regularised under G.O.Ms.NO.69, Rural Development and Panchayat Raj (E3) Department, dated 06.08.2012 did not figure at all in the directions issued by the learned Judge. There is absolutely no basis in the defence of the respondents that the impugned termination orders are relatable to the aforesaid interim directions. When the writ petitioners were regularised by virtue of the Government orders, officials holding lesser ranks could not have terminated



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the writ petitioners. If at all, it is only the Government that would have ousted the writ petitioner from service.

9. The orders are ex-facie illegal and bereft of jurisdiction. The writ petitioners herein admittedly had served the local body for more than 15 years by the time they were regularised by the orders of Government. The petitioners' probation was declared in the regularised post as Record Clerk. They had been in service for almost ten years. The petitioners cannot be said to be guilty of any kind of misrepresentation. Only after their service particulars were duly checked and verified, their names were proposed for regularisation. Their names are found in annexure 2 of the G.O.Ms.No.69, Rural Development and Panchayat Raj (E3) Department, dated 06.08.2012. To show the door to the writ petitioners at this point of time is monstrously unjust.

10. In this view of the matter, the impugned orders are set aside. The writ petitions are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To

- 1.The Principal Secretary,
Rural Development and Panchayat Raj Department,
Secretariat, Fort St.George,
Chennai-600 009.
- 2.The Director of Rural Development and Panchayat Raj,
Panagal Maligai,
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