



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)Nos.17009, 17021 and 17026 of 2020

and

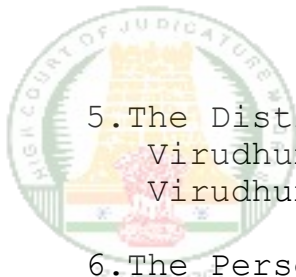
W.M.P(MD)Nos.14219 to 14221, 14228,14229,14231,14233,14235
and 14236 of 2020

- 1.G.Jayalakshmi ... Petitioner in W.P(MD)No.17009/2020
- 2.A.Gunavathi ... Petitioner in W.P(MD)No.17021/2020
- 3.N.Mohanraj ... Petitioner in W.P(MD)No.17026/2020

Watershed Development Team Member(Engineer)
District Watershed Development Agency
O/o. District Watershed Development Agency
Collectorate Campus,
Virudhunagar District.

Vs.

- 1.The State of Tamil nadu,
Rep by tis Secretary
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai.
- 2.The State of Tamil Nadu,
Rep by its Secretary
Agricultural Department,
Secretariat,
Chennai.
- 3.The Director
Directorate of Rural Development & Panchayat Raj
Panagal Maligai,
Saidapet,
Chennai-15.
- 4.The Chief Executive Officer,
State Level Nodal Agency,
TANCOF Building No.55,
Thiru Vi.Ka.Industrial Estate,
Ekkattuthangal
Chennai-600 032.



5.The District Collector,
Virudhunagar District,
Virudhunagar.

6.The Personal Assistant to District Collector (Development)
Collectorate Campus,
Virudhunagar District.

...Respondents in all W.Ps

COMMON PRAYER: Writ Petitions under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 3rd respondent vide his proceedings Na.Ka.No.66051/2011/EE2.1 dated 31.10.2020 and quash the same as illegal and consequently, to direct the respondents to engage the services of the petitioner as Overseer/Junior Draughting Officer taking into consideration of their length of service and experience gained by him with all other service and monetary benefits.

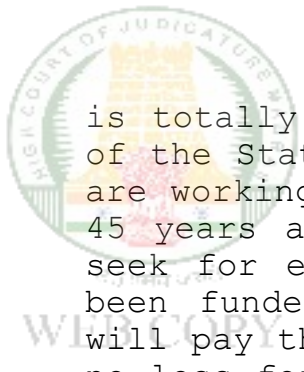
For Petitioner : Mr.M.Ajmalkhan, Senior Counsel
in all W.Ps for M/s. Ajmal Associates

For Respondents : Mr.N.Satheesh Kumar
in all W.Ps Additional Government Pleader

COMMON ORDER

The petitioners in all these writ petitions were appointed as Watershed Development Team Members in the Drought Prone areas Programme, which is a project funded 60% by the Central Government and 40% by the State Government. So, all the petitioners were engaged for the project work as Overseer/Junior Draughting Officers and most of them are working for more than 20 years continuously one after the other projects. Presently, the Batch V (2013-14) and Bath VI (2014-15) are in the third phase of the project. Under these circumstances, the petitioners have been directed to be disbanded by the impugned orders on the ground that the regular staff would continue the remaining project work, whereas the petitioners, who were appointed in the project work are entitled to continue till the completion of the project. The work will be completed only in the month of March, 2020-2021 and March 2021-2022 and therefore, they are entitled to work in the project upto March, 2021-2022, whereas in the present case before the completion of the project, the work of the petitioners have been disbanded by the respondents. Hence, aggrieved over the same, the petitioners have filed these writ petitions to quash the impugned orders.

2.The learned Senior counsel Mr.Ajmalkhan appearing for the petitioners would contend that all these petitioners were appointed as Watershed Development Team Members and they are working for more than 10 years. After utilizing the services of the petitioners for more than 10 years, all of a sudden their work was disbanded, which

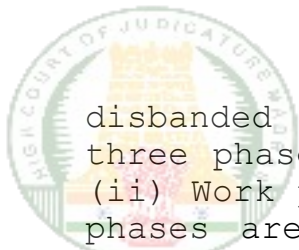


is totally against the interest of the petitioners. It is the duty of the State Government to protect the rights of the employers, who are working for more than 10 to 15 years and crossed the age of 40-45 years and at this stage, the petitioner cannot go anywhere and seek for employment. He would further submit that the project has been funded by the Central Government and the Central Government will pay the project fund to the State Government and that there is no loss for the State Government and there is no impediment for the State Government to permit the petitioners to continue in the existing project work upto the completion of the project. Hence, the learned Senior Counsel would submit that before expiry of the project work, which is to be completed in the month of March, 2021-2022, the respondents disbanded against the guidelines issued with regard to the Watershed Development Project. Therefore, he would contend that the impugned orders are liable to be quashed.

3.The learned counsel appearing for the petitioners would further submit that the project is going to be completed in the month of March 2021-2022 and therefore, in the middle of the project, the respondents disbanded the petitioners, which is totally against the guidelines issued under the Watershed Development Project.

4.The learned counsel would further contend that in the communication dated 15.11.2019, it was clearly clarified that the life span of the project is running upto March 2021-2022. As per the Government Order in G.O.Ms.No.43, Agriculture (WD1) Department, dated 17.02.2020, at paragraph No.7 (iv) (6), the WDT members who are required to implement the remaining works in the watersheds and take up consolidated phase and aid in the impact Evaluation process will be continued to be engaged till the project is declared as closed and disbanded as soon as the projects are closed. But the impugned order of the second respondent prematurely disbanded the services of the petitioners, which is against the Government Order in G.O.Ms.No.43, dated 17.02.2020 and therefore, the same is liable to be quashed.

5.Per contra, Mr.N.Satheesh Kumar, learned Additional Government Pleader would submit that the writ petitioners were appointed on consolidated pay in the scheme and thus, on completion of the project, the writ petitioners were relieved from their services for want of vacancies and in the order of appointment of the writ petitioners itself, it is clearly stated that the appointments are purely temporary and by virtue of the order of appointment, they cannot claim any right over the said temporary appointments. The services of the temporary watershed development team members like petitioners are not required and therefore, the said posts were ordered to be disbanded. Hence, the respondents



disbanded the petitioners. Further, he contended that there are three phases for completion of project viz., (i) Preparatory phase; (ii) Work phase and (iii) Evaluation phase. As far as the first two phases are concerned, the work of the watershed development team members are required and now the work of first two phases are completed and the work of last phase alone is pending, which can be carried out with the services of the regular employees. Hence, the respondents have disbanded the services of the petitioners, as they are using the services of the regular employees for the purpose of evaluation phase. Since no work for the petitioners in the project, their employments have been disbanded and therefore, they cannot claim as a matter of right and hence, the contention of the petitioners deserves no merits.

6. In support of this contention, the learned Additional Government Pleader referred the Judgment of the Hon'ble Supreme Court in **1992 (3) SCR 712 (INSTITUTE OF MANAGEMENT DEVELOPMENT UTTRA PRADHESH v. PUSHPA SRIVADHARVA)**, wherein it has been held that the appointment on adhoc basis and on contractual basis on consolidated pay for a fixed period are terminable without notice when the appointment came to be an end by efflux of time, the appointer has no right to continue in the post.

7. The learned Additional Government Pleader has also referred the Judgment of the Hon'ble Apex Court in **MADHYAMIK SHIKSHA POUSHATH UP v. AMULKUMAR MISHRA AND OTHER, dated 19.05.1992**, wherein it has been observed that the adhoc appointee / temporary employers paid on piece rate basis and discontinued on completion of their task were not entitled to reinstatement.

8. The learned Additional Government Pleader Mr. N. Satheesh Kumar would fairly submit that when the matter came up for hearing on the last occasion, this Court raised a query whether the services of the petitioners can be utilised if at all if there is any forthcoming new projects, for which, the respondents also filed an affidavit dated 20.10.2020 whereby they have clearly stated that the second respondent will consider the claim of the writ petitioners, if new projects in watershed are formulated by the Government of India and according to the guidelines framed by the Government of India in appropriate time. Therefore, he contended that the interest of the petitioners also protected, since this affidavit has been filed considering the fact that the petitioners have been worked in the watershed management programme for more than 10-15 years and crossed the age of 40-45 years and all these facts can be taken into consideration for the purpose of recruiting the petitioners in the new project. Hence, he would contend that there is no merit in the present writ petitions and prayed for dismissal of the same.



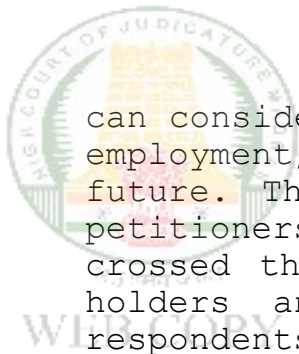
9. Heard Mr. Ajmalkhan, learned Senior counsel appearing for the petitioners; Mr. N. Sathesh Kumar, learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

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10. The petitioners were appointed in the different projects in the watershed management programme on consolidated pay. No doubt all the petitioners have been working continuously for more than ten to fifteen years and they have been crossed the age of 40-45 years. Since they have been working for more than 10-15 years, they would have gained the experience, which will be useful for the respondents. However, in the present case, the petitioners were disbanded by the second respondent stating that the Project works had been completed. Now the contention of the respondents is that there are three stages and two stages have been completed and last stage is the evaluation stage and the respondents have been utilizing the service of the regular employees for evaluation work and hence, they have disbanded the work of the petitioners.

11. No doubt, the respondents are the employers, who are providing an employment to the petitioners. The employer always have a right to take a decision with regard to the conditions of employment. In the present case, the respondents, being employer, have come to a conclusion that no work is available to avail the service of the petitioners. Therefore, they have passed the impugned order disbanding the petitioners' service. But the petitioners' main grievance was that the project will have a life span upto March 2021-2022 and thus, the respondents can avail the services of the petitioners. However, it is for the respondents to decide as to the utilization of service of the petitioners upto March 2021-2022. In the present case, as discussed earlier, the first two stages of work have been completed and the third stage is the evaluation stage and that they have decided to complete the evaluation stage with the help of their regular employees. Such being the case, the petitioners cannot insist the respondents to provide work, when they have no work to provide for the petitioners.

12. This Court is of the view that, it is the request of the petitioners to provide work until the completion of the project upto March 2021-2022, so that, they can get the salary for their livelihood. Having worked in the project for the respondents for more than 10-15 years and crossed the age of 40-45 years, now the petitioners are wanted to work to meet out their livelihood and standing before the respondents for providing work. Though the petitioners cannot claim as a matter of right, the respondents being the welfare State, it is bound to consider the plea of the petitioners in a sympathetic manner, in which case, the respondents



can consider the case of the petitioners and provide priority in the employment, in case any similar works are going to be implemented in future. That apart, this Court is of the opinion that since the petitioners had been worked for more than 10-15 years, and also crossed the age of 40-45 years and that too they are the Diploma holders and B.E. Graduates, it would be appropriate for the respondents, in case, if any direct recruitment is called for, to provide age relaxation, so that, they can also apply and get employment. Recruiting the petitioners in the direct recruitment with their rich experience in the field, certainly will be useful for the respondents and it would be helpful for the beneficiaries at the end.

13.The petitioners made an allegation with regard to the diversion of the fund by the second respondent to some other project, but no evidence is produced for such diversion and it is for the Central Government to take action, in case of diversion of fund and in this case due to non availability of evidence, this Court is of the opinion that there is no merit in the contention of the petitioners on this aspect.

14.On 24th July, 2020, the Secretary, Government of India has sent a communication to the Chief Secretary, Government of Tamil Nadu, wherein in paragraph No.3, it has been stated as follows:-

"The Government of India is proposing to come up with a new generation of watershed projects under WDC- PMKSY for which concerned State department may be asked to be in readiness with proposals. The DoLR had already discussed the revision of Guidelines with your State SLNA, Chairman and CEO in the month of January, 2020. Keeping the broad issue of Land Degradation Neutrality in view for achieving Sustainable Development Goals and completing the efforts of GOI towards doubling farmers income by 2022, the role of the State Government in implementing the scheme effectively assumes paramount importance."

15.The said communication appears to be that the Government of India raised a proposal to the Government of Tamil Nadu to come out with new watershed project. Further, the respondents have also filed an affidavit, dated 20.10.2020, whereby they have cleared that after taking into consideration of the utilisation of the services of the petitioners by the respondents for more than 10-15 years, they have stated that the services of the petitioners will be considered in case, if any new watershed projects come in future.

16.Considering the fact that the petitioners are working for more than 10-15 years in the same project and considering the age of the petitioners and that the respondents being a welfare state,



though it is not a matter of right for the petitioners to claim any legal right over the employment, it is the duty of the State Government to protect the interest of the petitioners to the extent of their survival, as the State has utilised their services extensively, they cannot go and seek for any new employment. Thus, this Court is of the opinion that the respondents can utilise the services of the petitioners in the forthcoming new projects, as stated in the affidavit filed by the second respondent. The petitioners have already got rich experience in the said watershed project. No doubt, such rich experience will be useful for the respondents, in case of utilising their services in the forthcoming new watershed projects which will be beneficial not only for the respondents, but also the agriculturists.

17.Though this Court is not inclined to allow these writ petitions, as there is no merit, this Court is inclined to direct the respondents (a).to consider the petitioners, who are all already worked in the watershed projects, and give priority in employment to them, in the forthcoming new projects of the respondents; and (b).to consider the age relaxation, in the case of direct recruitment for watershed projects, to the petitioners, so as to enable them to participate in the process of direct recruitment.

18.With the above observations, these writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

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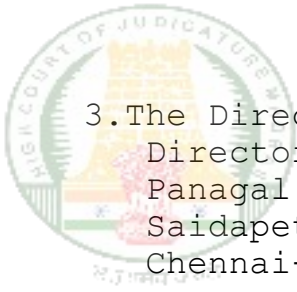
/ /2022

Sub Assistant Registrar(CS)

To

1.The Secretary to the Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai.

2.The Secretary to the Government of Tamil Nadu,
Agricultural Department,
Secretariat,
Chennai.



3.The Director

Directorate of Rural Development & Panchayat Raj
Panagal Maligai,
Saidapet,
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4.The Chief Executive Officer,

State Level Nodal Agency,
TANCOF Building No.55,
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Chennai-600 032.

5.The District Collector,

Virudhunagar District,
Virudhunagar.

6.The Personal Assistant to District Collector (Development)

Collectorate Campus,
Virudhunagar District.

+1 CC to M/s.AJMALKHAN (AJMAL ASSOCIATES), Advocate (SR-14035[F]
dated 24/03/2022)

+1 CC to M/s.SPL GP (SR-14326[F] dated 24/03/2022)

ORDER MADE IN

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