



WEB COPY



W.P.No.15826 to 15845 & 16561 to 16606 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.08.2023

PRONOUNCED ON : 30.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.15826 to 15845 & 16561 to 16606 of 2012
and M.P.No.1 of 2012 (66 Nos.)

W.P.No.15826 of 2012 :-

M.Radha

...Petitioner

-Vs-

1. The General Manager,
Food Corporation of India,
124, Greams Road,
Chennai – 600 006.

2. The Regional Manager,
Regional Office,
Food Corporation of India,
Chennai – 600 006.

3. The Area Manager,
Food Corporation of India,
Tatabad,
Coimbatore – 641 012.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in Letter No.IR(L)/30/Court



W.P.No.15826 to 15845 & 16561 to 16606 of 2012

Cases/DPS/RO/2010-11/Vol.IV dated 16.02.2012 and quash the same and further direct the first respondent to permanently absorb the petitioner in any of the Class IV Posts lying vacant in FCI Depot at Coimbatore or in the alternative to regularize/departmentalize the services of the petitioner.

In all W.Ps.

For Petitioner : Mr.A.E.Ravichandran

For Respondents : Mr.S.Vijay Kumar
Senior Counsel
For Mr.J.Melwin Jabaz

COMMON ORDER

These writ petitions have been filed challenging the order passed by the first respondent Letter No.IR(L)/30/Court Cases/DPS/RO/2010-11/Vol.IV dated 10.02.2012/16.02.2012, thereby rejecting the request made by the petitioner in all the writ petitions to appoint them in the post of Sweeper.

2. The petitioner in all the writ petitions had been working as temporary labourers from the year 1983 in various capacities in the respondents Corporation on contract basis till 1991. After abolition of contract labour system, the Food Corporation of India Depots, Labour Co-operative Society was framed and the petitioners were working in the



W.P.No.15826 to 15845 & 16561 to 16606 of 2012

same depots through the Labour Co-operative Society from the year 1992 to 1995. During their service, provident fund was deducted from their wages. In the year 1996, the said system engaging workers through society was also scrapped. Thereafter, all the temporary workers were brought under the direct payment system by the respondents.

3. The petitioners were working as ancillary workers and also temporary workers. Further they were not regularized or absorbed in to any one of the permanent vacancies and they were paid daily wages. Therefore, the labourers raised industrial dispute in I.D.Nos.39 of 1992 & 55 of 1993 for regularization or departmentalization, before the Industrial Tribunal, Chennai. The Industrial Tribunal passed award thereby directing the Food Corporation of India to regularize the service of the labourers employed in different storage depots in south India from the date of notification of abolition, by award dated 09.12.1997 and 29.07.1998. The said award confirmed up to the Hon'ble Supreme Court of India. Even then, the service of the labourers were not regularized by the respondents.



W.P.No.15826 to 15845 & 16561 to 16606 of 2012

WEB COPY

4. The vacancies in Class IV posts in the depot are not being filled up by the respondents on regular basis and the work is being handled through the ancillary workers like the petitioners on direct payment system. They are doing class 4 works like dusting, loading, cleaning, covering, etc. Similarly placed ancillary workers in other States were regularly absorbed in various class IV posts. However, the petitioners were not regularized or absorbed in regular available post.

5. Therefore, the petitioners submitted representation and the same was not considered. Hence, they were approached this Court in W.P.No.24467 to 24488 of 2012 and this Court by the common order dated 08.11.2011, directed the first respondent to dispose the representation within a period of eight weeks. However, all the request made by the petitioners were rejected by the orders dated 10.02.2012 & 16.02.2012. Hence, the petitioners filed the present writ petitions with the above prayer.



W.P.No.15826 to 15845 & 16561 to 16606 of 2012

6. The learned counsel appearing for the petitioner in all writ petitions would submit that the similarly placed labourers were already approached the Industrial Tribunal and the respondents/Corporation were directed to regularise their service and the same was confirmed upto the Hon'ble Supreme Court of India. As far as the petitioners are concerned, they are working continuously on daily wages for more than 25 years. Therefore, their service are liable to be regularised or absorbed in the suitable class IV posts in Food Corporation of India depots. Hence, he prayed to quash the orders impugned in these writ petitions.

7. The learned Senior Counsel appearing for the respondents submitted that in the similar matter, though the respondents lost their case before the Hon'ble Supreme Court of India, the contempt petition filed by the labourers, who raised the industrial dispute, in Cont.P.(Civil) No.404 of 2019, was dismissed by the Hon'ble Supreme Court of India by an order dated 19.05.2020. Hence, the request of the petitioners rightly rejected by the first respondent and prayed for dismissal of the present writ petitions.



W.P.No.15826 to 15845 & 16561 to 16606 of 2012

8. Heard Mr.A.E.Ravichandran, learned counsel appearing for the petitioner and Mr.S.Vijaya Kumar, learned Senior Counsel appearing for the respondents in all writ petitions.

9. The petitioners were working as temporary labourers in the respondents/Corporation from the year 1983 on contract basis, till 1991. After abolition of contract labour system, the petitioners were working through the Labour Co-operative Society from the year 1992 to 1995. After 1996, the said system was also scrapped and they were brought under the direct payment system by the respondents. Therefore, already the petitioners were brought under the direct payment system and they are not working under any contractors and they are enjoying all the benefits.

10. Further the petitioners can not be absorbed in class IV post, since they are ancillary workers. They are governed by service conditions defined in the direct payment system introduced by the Food Corporation of India and under implementation since 1996. They are governed under the Model Standing Order under the Industrial



W.P.No.15826 to 15845 & 16561 to 16606 of 2012

Employment (Standing Orders) Act 1946. They were continuing to do some work as ancillary worker. The post which are sought to be filled up by the petitioners are governed through 100% promotion of Sifter/Watchman/Sweeper with three years experience. Therefore, these posts are feeder posts to Dusting Operator, which are covered by Food Corporation of India (Staff) Regulation 1971. Therefore, their case cannot be considered for appointment in the post of sweepers.

11. Further, the Corporation has four systems of labour including the direct payment system. The petitioners ought to have sought specific relief in that regard. Though similarly placed labourers got favorable orders upto Hon'ble Supreme Court of India, the contempt petition filed by them in Cont.P.(Civil)No.404 of 2019 was dismissed by the Hon'ble Supreme Court of India, by an order dated 19.05.2020. While dismissing the contempt petition, the Hon'ble Supreme Court of India held that the labourers have assumed that the direct payment system commenced only from 01.05.1996. Whereas it is noticed from other decision of the Hon'ble Supreme Court of India that, the direct payment system is in existence from 1973. It is not a new set up created



W.P.No.15826 to 15845 & 16561 to 16606 of 2012

by the Corporation pursuant to the minutes recorded on 12.04.1996 as such. Therefore, the direction issued by the Tribunal is silent about the system in which the concerned workers have to be regularised and departmentalised.

12. Further held that those who are working as contract labourers engaged through cooperative societies or private contractors came to be regularised in the direct payment system as per the policy of 1991. The issue as to regularisation of the concerned workmen under particular labour system had not been put in issue before the Tribunal and up to the Hon'ble Supreme Court of India. A general direction came to be issued to regularise and departmentalise them. Therefore, they were regularised under the direct payment system and the Hon'ble Supreme Court of India held that no contempt is made out and dismissed the contempt petition by an order dated 19.05.2020.

13. Insofar as the petitioners are concerned as stated supra, they were already brought under the direct payment system by the respondents and they were engaged as ancillary workers. Therefore, the



W.P.No.15826 to 15845 & 16561 to 16606 of 2012

first respondent rightly rejected the claim made by the petitioners and this Court finds no infirmity or illegality in the order passed by the first respondent. The prayer sought for in all the writ petitions, is devoid of merits and liable to be dismissed.

14. Accordingly, all the Writ Petitions are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to cost.

30.08.2023

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order

rts

To

1. The General Manager,
Food Corporation of India,
124, Greams Road,
Chennai – 600 006.
2. The Regional Manager,
Regional Office,
Food Corporation of India,
Chennai – 600 006.
3. The Area Manager,
Food Corporation of India,
Tatabad,
Coimbatore – 641 012.



WEB COPY



W.P.No.15826 to 15845 & 16561 to 16606 of 2012

G.K.ILANTHIRAIYAN. J.

rts

COMMON ORDER IN
W.P.Nos.15826 to 15845 & 16561 to 16606 of 2012
and M.P.No.1 of 2012 (66 Nos.)

30.08.2023