



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.6948 of 2021

1. G.Malathy
2. P.Purusotharaj
3. Sangeetha.B
4. Athithan
5. S.Selvamuthu
6. RupaAllampalli
7. Subisha.T.K
8. A.Bactavatchalou
9. P.Kumaran
- 10.P.Arumugam
- 11.T.Kannan
- 12.S.Ramesh
- 13.L.Jayachandran
- 14.S.Siranjeevi
- 15.Palepu Chinababu
- 16.P.Parthiban
- 17.R.Umadevi
- 18.U.Sivaraj
- 19.N.Thayabaran

Petitioners

VS.



1. Union of India
Rep by its Secretary,
Ministry of Agriculture Department and Co-Operation,
Krishi Bhavan, New Delhi- 110 001.
2. The Secretary to Government of Puducherry,
Agriculture and Farmers Welfare Department
New light House Road,
Vembakeerapalayam, Puducherry- 605 001.
3. The Government of Puducherry
Rep. by Director of Agriculture
Department of Agriculture
Puducherry.
4. The Additional Director of Agriculture (T and V)- Cum- Project Director
ATMA, Puducherry
Agricultural Complex, Thattanchavady
Puducheery- 605 009.
5. The Additional Director of Agriculture Cum- Project Director
ATMA , Karaikal,
Thalatheru,
Karaikal- 609 605.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to desist from giving artificial breaks in the petitioners service and engage the petitioners in the same post till the existence of the ATMA Scheme as Block Technology Manager, Assistant Technology Manager, Computer Programmer, as the case may be and thereby grant 10% enhancement in the salary annually, including arrears and other consequential benefits flowing thereof.



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For Petitioners : Mr.B.Kumar

Senior Counsel for
Mr.B.Shruthan

For Respondents : Mr.Pazhani Raja

Central Government Standing Counsel
for R1

Mr.Syed Mustafa
Special Government Pleader
for R2 to R5

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the respondents to desist from giving artificial breaks in the services of the petitioners and to engage the petitioners in the ATMA Scheme in the same post and grant 10% enhancement in the salary annually and for a further direction to the respondents to pay the arrears of salary and other benefits.

2.The petitioners are contractual employees working under Agricultural Technology Management Agency (ATMA) Scheme. The particulars of the appointment of the petitioners is tabulated hereunder:

S.No	NAME	DESIGNATION	DoA
1	G.Malathy	BTM	19.12.2013



S.No	NAME	DESIGNATION	DoA
2	P.Purusotharaj	BTM	02.06.2014
3	B.Sangeetha	BTM	11.06.2014
4	A.Athithan	BTM	19.12.2013
5	S.Selvamuthu	BTM	26.02.2014
6	RupaAllampalli	BTM	19.12.2013
7	Subisha.T.K	BTM	26.06.2014
8	A.Bactavatchalou	BTM	26.02.2014
9	P.Kumaran	BTM	02.06.2014
10	P.Arumugam	BTM	26.10.2017
11	T.Kannan	BTM	02.11.2017
12	S.Ramesh	BTM	05.03.2020
13	L.Jayachandran	ATM	26.02.2014
14	S.Siranjeevi	ATM	26.02.2014
15	Palepu Chinababu	ATM	26.02.2014
16	P.Parthiban	ATM	03.11.2017
17	R.Umadevi	ATM	08.03.2019
18	U.Sivaraj	ATM	08.03.2019
19	N.Thayabaran	CP	12.01.2018

3.The petitioners were recruited by the contractors, nominated by the 2nd respondent. Initially, the petitioners underwent training conducted by ATMA and on completion of the training, the petitioners have been appointed to their respective posts.



insofar as the Union Territory of Puduchery is concerned. The Scheme itself provides that the implementing authority of the Scheme shall be the concerned State Government or the Union Territory, as the case may be. The Contractors who receive the funds from the Government of India, should credit the salary of the employees and it forms part of the expenses incurred by the contractors.

5.As per the ATMA guidelines, the remuneration is payable in the following manner:

2.9 MODE OF RECRUITMENT AND REMUNERATION:

(i) The BTMs and ATMs at Block Level will be engaged by Project Director (PD), ATMA on contract basis through a mechanism identified by the State. BTMs and ATMs should be preferably below 45 years of age, as their work involves extensive travel/field activities. While, the ATMs will remain under the administrative control of BTM, the BTM will work under administrative control of PD, ATMA. However, some States may prefer to link the BTM & ATMs with PD, ATMA through the Block Development Officer (BDO), if activities of Agriculture and allied departments are already being coordinated by the BDO at Block level.

(ii)The posts of State Coordinator, Gender Coordinator, BTM & ATM at Block level and Computer Programmer/ Computer Operator (at State & District Level are to be filled on contract basis with lump-sum remuneration. An annual increase of 10% in emoluments of BTMs,



ATMs, Computer Programmers / Computer Operators, State Coordinators, Gender Coordinators, Deputy Directors(SAMETI), Deputy Project Director(ATMA) and Accountant-cum-Clerk deployed on contractual basis has been provided for such employees who continue in their employment for more than one year. All other posts may be filled by deputation/secondment/appointment for the scheme period or such other mode as the State Government may deem appropriate. In the rare administrative exigencies that the State Government deems appropriate, regular vacancies of the level of Deputy Directors in the SAMETIS, Deputy Project Directors in ATMAS and Accountant-cum-Establishment-Clerk also may be filled on contractual basis. However, Project Directors and Director (SAMETI) should in no case be deployed on contractual basis. Contractual employees (against regular vacancies) may be paid gross emoluments not exceeding the following ceilings:

(i) Deputy Director, SAMETI:	Rs. 44,400
(ii) Deputy Project Director, ATMA:	Rs. 42,000
(iii) Accountant-cum-Establishment-Clerk:	Rs. 22,500

10% increase per annum will be given after completion of one year of service (to the satisfaction of the State Government) from the date of fixation of emoluments as per revised norms. Such contractual appointment against regular vacancies is only an interim arrangement till the time these vacancies are filled using any other mode indicated above. The contractual staff should be preferably engaged through an agency identified by the State in view of long ramifications of hiring contractual staff directly. The States should ensure that enough publicity through newspapers is given before engaging contractual manpower and selecting service providers/placement agencies (for giving manpower). It



must be ensured that only genuine/reputed service providers are selected by a competitive bidding process. Bidding parameter will be profit margin that a bidder is quoting over and above the gross aggregate emoluments of all the persons of various categories which are proposed to be hired through a bid process.

6.The petitioners have further stated that the contractual staffs will also be eligible for benefits like EPF, ESIC as admissible from time to time as per the prevalent laws. The guidelines also provide that while renewing the contract, the concerned implementing agency viz., the State Government must ensure that existing/experienced contractual manpower is retained and their services are not terminated without assigning any reason.

7.The grievance of the petitioner is that the contractor in order to avoid paying the 10% increase in the emoluments as per the guidelines, started giving artificial breaks in their service and thereby, every time, the petitioners were attempted to be posted afresh with the same emoluments without any enhancement as contemplated under the ATMA guidelines. The complaint made by the petitioners in this regard and the various representations that were made to the respondents did not receive any response and aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate directions.



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8.The 2nd and 3rd respondents have filed a counter affidavit. On carefully going through the counter affidavit, it is seen that the counter affidavit is merely a reiteration of the ATMA guidelines and the manner in which it is being operated. Even at Paragraph No.12 of the counter affidavit, the pay scale/remuneration as it existed on 03.09.2019 has been captured and for proper appreciation the same is extracted hereunder:

12.The State Level Sanctioning Committee (SLSC -2019) held on 03.09.2019 has approved the following contractual post viz., BTM, ATM for the implementation of ATMA scheme in the Union Territory of Puducherry, with the below mentioned criteria of eligibility and remuneration.

Sl.No.	Name of the Post	Name of the Posts approved SLSC	Mode of Deployment & Qualification prescribed by GOI	Pay Scale / Remuneration
1	Block Tech. Manager (BTM)	12	Contract-Post graduate in Agri./ Allied sector with Computer Skills and minimum 2 years field experience in Agri. Related activities.	Consolidated Rs.30,000/- month as per 2018 guidelines
2	Asst. Tech. Manager (ATM)	6	Contract-Graduate/ Post	Consolidated



Sl.No.	Name of the Post	Name of the Posts approved SLSC	Mode of Deployment & Qualification prescribed by GOI	Pay Scale / Remuneration
			graduate in Agri./ Allied sector and preferably 1 year field experience in Agri. Related activities.	Rs.25,000/- month as per 2018 guidelines
3	Computer Programmer / Operator	3	(i). Contract-B.Tech/MCA for computer programmer (1 year experience for B.Tech and 1.5 years of MCA) (ii). Contract-Graduate with Diploma in Computer application or equivalent qualification from a recognized or reputed institution with 1 year experience.	Average figure Rs. 16,000/- month as per 2018 guidelines
Total		21		

9.The 2nd and 3rd respondents have questioned the claim made by the petitioners only on the ground that an attempt has been made seeking for regularization and such regularization cannot be granted since they are contractual employees. That apart, the 2nd and 3rd respondents have also stated that the renewal of the subsisting contract does not automatically result in the renewal of the contract with the petitioners, if they are found in eligible.

10.The 4th and 5th respondents have also filed a separate counter affidavit.

On carefully going through the same, there is no pleading that runs contrary to



the guidelines and the counter affidavit is more in the nature of a reiteration of the ATMA guidelines. The 4th and 5th respondents have also raised the very same objections as was done by the 2nd respondent in their counter affidavit.

11. Heard Mr.B.Kumar, learned Senior Counsel appearing on behalf of the petitioners, Mr.Pazhani Raja, learned Central Government Standing Counsel appearing on behalf of the 1st respondents and Mr.Syed Mustafa, learned Special Government Pleader appearing on behalf of the respondents 2 to 5.

12. It must be made clear that the petitioners are not seeking for regularization of their employment. The petitioners only want the strict implementation of the ATMA guidelines and the payment of the emoluments in accordance with the guidelines that has been extracted supra. In order to ensure the same, the petitioners have sought for a direction from this Court to desist the respondents from giving artificial breaks and thereby, continue with the services of the petitioners afresh every time by paying the same emoluments every year without any increments.

13. A similar grievance as has been raised in this writ petition, was raised



before this Court by the employees who were engaged in Tamil Nadu under the ATMA Scheme. The Madurai Bench while dealing with W.P.MD.Nos.1627 etc. of 2018, went into the scope of the Scheme and specifically dealt with the issue of giving artificial breaks. On considering the same, the following order was passed by issuing directions.

(i) It is made clear that the scheme appointees could have no claim for regularization. But then so long as the scheme continues, subject to one being fit and not found guilty of any misconduct, the scheme appointee can continue in the said post so long as the scheme is in force.

(ii). The Hon'ble Supreme Court in the decision reported in 1985 4 SCC 43-(Rattan Lal & Others Vs. State of Haryana & Others), deplored the practice of giving artificial break in service. The state Government is expected to function as a model employer. This proposition continues to hold good even in this age of liberalisation and globalisation. The aforesaid judgment was relied on in the subsequent Full Bench decision of the Hon'ble Supreme Court reported in (1991) 2 SCC 599-(Sri Rabinarayan Mohapatra Vs. State of Orissa and others). The very same principle has been reiterated in yet another decision of the Hon'ble Supreme Court reported in (2009) 6 SCC 611-(MD.Abdul Kadir & Another Vs. Director General of Police, Assam & others). Therefore, it cannot lie in the mouth of the State



Government to now contend that they are entitled to terminate the services of the contractual employee on the expiry of the 11th month and give artificial break after which engage them again. This Court makes it clear that the practice of giving artificial breaks shall be discontinued henceforth. The benefits payable to the petitioners/Scheme appointees in terms of the scheme norms, shall be disbursed. In view of the comprehensive nature of the relief given to the petitioners herein, there shall be of no claim for payment of past arrears. However, as regards the future, it is undertaken by the Government that the periodical/annual increment will be given effect in terms of the scheme regulations.

14. I am in complete agreement with the above directions issued by the learned Single Judge of this Court. The funding agency for carrying out the ATMA Scheme is the Central and State Government and the implementing agency is the concerned State Government. The contractor is chosen by the implementing agency and whatever payments are made by the contractor, is from the funds that is received by him from the funding agency. In view of the same, the contractor is expected to strictly follow the guidelines issued under the ATMA Scheme. As rightly held in the above judgment, the entitlement for increase in emoluments annually, cannot be defeated by giving artificial break in service. Such practice adopted will amount to an unfair labour practice and



petitioners derive their right from the ATMA guidelines and they have been engaged by entering into a contract every year. Therefore, the petitioners will be entitled for the benefits that are given under the Scheme and they cannot be deprived of the same by adopting unfair labour practices.

15. In the light of the above, this writ petition is disposed of with the following directions:

(a) It is made clear that the scheme appointees could have no claim for regularization. But then so long as the scheme continues, subject to one being fit and not found guilty of any misconduct, the scheme appointee can continue in the said post so long as the scheme is in force.

(b) There shall be a direction to the respondents to henceforth discontinue the practice of giving artificial breaks and deprive the persons who are engaged in the Scheme from increasing the emoluments as provided under the ATMA guidelines.

(c) The petitioners 1 to 12 were engaged as Block Technical Managers, 13 to 18 were engaged as Assistant Technical Managers and 19th petitioner was



engaged as Computer Programmer and the date from which they were engaged has already been extracted supra. Till the year 2018, the 10% increase in the emoluments was properly given to the petitioners every year. The problem started only from the year 2019 and it is brought to the notice of this Court that the salary of the petitioners was fixed at the rate at which they were receiving it in the year 2018 and thereafter, there has been absolutely no increase in the emoluments because of the artificial breaks given in their services. Since such artificial breaks have been held to be illegal by this Court, there shall be a direction to the respondents to fix the salary of the petitioners from 2019 by giving the necessary increase in emoluments as per the ATMA guidelines and pay the arrears of salary to the petitioners, within a period of eight weeks from the date of receipt of copy of this Order and

(d) Till the services of the petitioners continue, the respondents shall ensure that the salary is fixed only based on the ATMA guidelines. No Costs.

25.01.2023
(2/2)

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No



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To

1. The Secretary,
Union of India
Ministry of Agriculture Department and Co-Operation,
Krishi Bhavan, New Delhi- 110 001.
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Agriculture and Farmers Welfare Department
New light House Road,
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N. ANAND VENKATESH, J.

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