



W.P.Nos.8018, 8419 to 8421 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.8018, 8419 to 8421 of 2013

M.P.Nos.1 to 3 of 2013 (4 Nos.)

W.P.No.8018 of 2013 :-

1. M.Thirupathi
Data Entry Operator,
O/o.The Conservator Of Forests,
Athiyaman Tree Park,
Near Collectorate,
Dharmapuri.
2. G.Premila,
Data Entry Operator,
O/o.District Forest Officer,
Harur Division,
Katcheri Road,
Harur-636903.
3. A.M.Marimuthu,
Data Entry Operator,
O/o.Divisional Forest Officer,
Modern Nursery Division,
Collectorate Campus,
Dharmapuri-636705.
4. L.Muthukumar,
Data Entry Operator,
O/o. Forestry Extension Officer,
Forestry Extension Division,
Chengalpattu, Kancheepuram.



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5. A.Nagesh,
Data Entry Operator,
O/o. Forestry Extension Officer,
Forestry Extension Division,
Nanmangalam, Chennai.
6. E.Senthil Kumar,
Data Entry Operator,
O/o. Chief Conservator Of Forests,
Forestry Extension,
North Region, Chennai-22.
7. D.Sathiyapriya,
Data Entry Operator,
O/o. Conservator Of Forests,
Forest Genetics Circle,
Coimbatore-43.
8. S.Amara,
Data Entry Operator,
O/o. Divisional Forest Officer,
Social Forestry Division,
Vellore-9.
9. P.Shanthi,
Data Entry Operator,
O/o. District Forest Officer,
Chengalpattu Division,
No.5/9, Varadharaja Farm,
Vandavasi Road,
Kancheepuram-631501.
10. S.Jaibarath,
Data Entry Operator,
O/o. District Forest Officer,
Vellore Division,
Vellore-632004.
11. R.Sugashini,
Data Entry Operator,



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O/o. Forestry Extension Officer,
Forestry Extension Division,
Krishnagiri.

12. S.Ganesh Kumar,
Data Entry Operator,
O/o. Forestry Extension Division,
Thenmathur,
Thirukovilur Road,
Thiruvannamallai.
13. M.Balamurugan,
Data Entry Operator,
O/o. Soil Conservation Officer,
Mettur Soil Conservation Scheme Division,
Collectorate Campus,
Dharmapuri-636705.
14. M.Palani,
Data Entry Operator,
O/o. Forestry Extension Officer,
Forestry Extension Division,
Pallikonda, Vellore.
15. S.Aarthi,
Data Entry Operator,
O/o. Conservator Of Forests,
Chennai Circle,
DMS Campus,
Teynampet, Chennai-6.
16. A.Sasithra,
Data Entry Operator,
O/o. Divisional Forest Officer, Social Forestry Division,
Thiruvannamalai.
17. S.Shabihana,
Data Entry Operator,
O/o. District Forest Officer,



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Interface Forestry Division,
Krishnagiri-635001.

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18. S.Uma,
Data Entry Operator,
O/o. The Forestry Extension Division,
Chithali, Perambalur-621708.

...Petitioners

-Vs-

1. The State of Tamil Nadu rep. by
The Additional Chief Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai – 9.
2. The Additional Principal Chief Conservator
of Forest (Afforestation) and Chief Project,
Director of Tamil Nadu Biodiversity
Conservation and Greening Project,
JFM Centre,
Vellacherry Main Road,
Chennai – 600 032.
3. The District Forest Officer,
Vellore Division,
Vellore.
4. The Forestry Extension Officer,
Forestry Extension Division,
Thiruvannamalai.
5. The Soil Conservation Officer,
MSCS Division,
Collectorate Campus,
Dharmapuri-636705.
6. The Forestry Extension Officer,
Forestry Extension Office,
Pallikonda, Vellore.



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7. The Conservator Of Forests,
Chennai Circle, Chennai-6.

8. Divisional Forest Officer,
Social Forestry Division,
Thiruvannamalai.

9. The District Forest Officer,
Interface Forestry Division,
Krishnagiri-635001.

10. The District Forest Officer,
Perambalur Division,
Perambalur.

11. The Forestry Extension Officer,
Forestry Extension Division,
Chithali, Perambalur-621708.

... Respondents

W.P.No.8419 of 2013 :-

G.Manimegalai
Date Entry Operator,
O/o. The Wildlife Warden,
Collectorate Master Plan Complex,
Nagapattinam – 611 001

... Petitioner

Vs.

1. The State of Tamil Nadu rep. by
The Additional Chief Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai – 9.

2. The Additional Principal Chief Conservator
of Forest (Afforestation) and Chief Project,
Director of Tamil Nadu Biodiversity
Conservation and Greening Project,
JFM Centre,



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Vellacherry Main Road,
Chennai – 600 032.

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3. The Wildlife Warden,
Collectorate Master Plan Complex,
Nagapattinam – 611 001.

... Respondents

W.P.No.8420 of 2013 :-

P.Saraswathi
Date Entry Operator,
O/o. The District Forest Office,
Perambalur Forest Division,
Perambalur.

... Petitioner

Vs.

1. The State of Tamil Nadu rep. by
The Additional Chief Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai – 9.

2. The Additional Principal Chief Conservator
of Forest (Afforestation) and Chief Project,
Director of Tamil Nadu Biodiversity
Conservation and Greening Project,
JFM Centre,
Vellacherry Main Road,
Chennai – 600 032.

3. The District Forest Officer,
Perambalur Forest Division,
Perambalur.

... Respondents

W.P.No.8421 of 2013 :-

N.Priya
Date Entry Operator,
O/o. The District Forest Officer,
Thiruvarur Division,



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Thiruvarur – 610 001.

... Petitioner

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Vs.

1. The State of Tamil Nadu rep. by
The Additional Chief Secretary to Government,
Environment and Forest Department,
Secretariat, Chennai – 9.
2. The Additional Principal Chief Conservator
of Forest (Afforestation) and Chief Project,
Director of Tamil Nadu Biodiversity
Conservation and Greening Project,
JFM Centre,
Vellacherry Main Road,
Chennai – 600 032.
3. The District Forest Officer,
Thiruvarur Division,
Thiruvarur.

... Respondents

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, calling for the records on the file of the first respondent herein in G.O.Ms. No.276, Environment and Forest (FR-6) Department, dated 13.12.2012 and the proceedings of the second respondent herein in Endt. No. TBGP6/15/2012 dated 28.12.2012 to quash the same insofar as the posts of Data Entry Operators alone is concerned and to direct the respondents herein to continue the services of the petitioners as Data Entry Operators in Tamilnadu Biodiversity Conservation and Greening Project, on the basis of their service and performance until their regular absorption in the Forest Department.

In all W.Ps.



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For Petitioners : Mr.S.Balakrishnan
For Mr.M.Ravi
For Respondents
For R1 & R2 : Dr.T.Seenivasan
Special Government Pleader

COMMON ORDER

These writ petitions have been filed challenging the G.O.Ms. No.276, Environment and Forest (FR-6) Department, dated 13.12.2012, issued by the first respondent and consequent proceedings dated 28.12.2012 issued by the second respondent, thereby initiated the process of recruitment to the post of Data Entry Operator.

2. The petitioners in all the writ petitions had educational qualification of 10th standard with diploma in computer application and typewriting. They have been employed as computer operator and they have got experience in the forest department towards such as compilation of census statistics GIS software, ECS software, power point presentation etc. While being so, the first respondent issued G.O.(Ms.)No.190, Environment and Forest (FR.6) Department dated 20.12.2012 by virtue of which, the government having examined the proposal submitted by the second respondent requesting to pass appropriate orders to adopt the



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operation manual for the project named as Tamil Nadu Biodiversity Conservation and Greening Project.

3. As per the manual in paragraph 3.3, under the category of Data Entry Operator in serial number 17, the total number of sanctioned post has been fixed as 10 insofar as Project Management Unit is concerned and insofar as the Divisional Management Unit is concerned, the total number of sanctioned posts has been fixed as 97 and thus the total number of sanction posts has been fixed as 107.

4. In pursuant to the government order in G.O.Ms.190 dated 20.12.2011, recruitment procedure for engaging contractual staff were initiated as per the communication dated 24.02.2012. The petitioners were under expectation that their service would be regularized. However, they informed that they have to undergo a separate selection procedure for an appointment on contractual basis in a project. During the month of April, 2012, interview call letters were issued to them and they were appointed on contract basis temporary for the period of one year. However, the government order in G.O.(Ms).No.276 Environment & Forest (FR-6) Department, dated 13.12.2012 provided that the



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contractual staff be recruited from two sources viz., engaging the eligible retired staff or from open market through outsourcing. Therefore, it is under challenge in the present writ petition.

5. Heard the learned counsel appearing on either side and perused the material placed before this Court.

6. On perusal of common counter affidavit filed by the first respondent revealed that the project called Tamil Nadu Biodiversity Conservation and Greening Project itself with the assistance of Japan International Co-operative Agency for the during of eight years from the year 2011 – 2012 to the year 2018-19. In the formulation and approval of project itself, policy decision was taken to implement the project with a part of contractual staff, taking into various administrative and financial implications and objective and implementation of the project. Therefore, the petitioner cannot challenge the government authority in the mode of contractual appointment. The petitioners 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.



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7. The Chief Project Director of Tamil Nadu Biodiversity Conservation and Greening Project had registered the project management unit as Tamil Nadu Biodiversity Conservation and Greening Society under the provisions of the Tamil Nadu Societies Registration Act, 1975 as S.No.291 of 2011. In the Government Order in G.O.(Ms).No.190, Environment and Forest (FR.6) Department, dated 20.12.2011, the Operational Manual of the Project Management Unit was adopted as approved by the High Level Empowered Committee.

8. The said Operational Manual of the Project Management Unit contains complete guidelines for the implementation of the Project namely Tamil Nadu Biodiversity Conservation and Greening Project and clause 3.9, 3.9.1 and 3.9.2 of the said manual prescribes procedures for recruitment of permanent staff and contractual staff in the Project Management Unit/Divisional Management Unit. The Manual 3.9.1, with regard to recruitment reads as follows :-

“3.9.1.RECRUITMENT

- For contractual engagement by the Project Management Unit (PMU)/ Divisional Management (DMU) Unit, an advertisement is to be issued in one*



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local daily newspaper inviting applications, indicating the qualification. essential and desirable.

- *The applications will be scrutinized by a committee constituted by the Chief Project Director for the purpose, followed by interview of the shortlisted candidate by the committee.*
- *Candidates with knowledge of local language, topography of the area, local cultural background and professional experience will be preferred.*
- *Weightage shall be given to those who have exposure in Forest Department activities commensurate with their qualification, professional experience and overall capability in relevant field.*
- *The candidates, offered appointment should be subject to physical fitness as certified by qualified doctor not below the rank of Civil Assistant Surgeon in Government Hospital.*
- *Offer letters are to be sent thereafter to the selected candidates through Registered post/Speed Post/Courier.*

9. The terms and conditions provided in manual 3.9.2. reads as follows:-



“3.9.2. Terms and conditions of staff contractual deployment:-

- *Initially the appointment will be on provisional basis and the contract for a period of one year will be made subject to verification of:*
 - ◆ *Medical Certificate issued by Medical officer not below the rank of Civil Assistant Surgeon in support of physical fitness.*
 - ◆ *Character certificate issued by two Group A or B officers.*
 - ◆ *Relief order, clearance certificate from previous employer, if employed.*
- *The appointment will be on consolidated emoluments per month, which will comprise consolidated salary, inclusive of all allowances like H.R.A., conveyance allowance etc.*
- *This appointment does not confer any right to a regular appointment at any time in the Project or any other State Government Organizations. The appointment temporary in nature and shall not invite any legal recourse now or in the future.*
- *That in the event of unauthorised absence during the contract period or any other misconduct shall render the staff liable for termination. The expression misconduct would mean improper or unprofessional*



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behaviour, bad management, misbehaviour etc.

Whether an act is misconduct or not would be decided by the Chief Project Director and his/her decision will be final and binding.”

Accordingly the engagement of the petitioners were only on contractual basis, without any accrued right of employment on regular basis.

10. Thereafter, the Government issued another government order in G.O.Ms.No.276 Environment and Forest (FR6) Department, dated 13.12.2012, thereby amending the existing para 3.9.1 under Chapter 3 of the Annexure of the government order in G.O.Ms.No.190 Environment and Forest (FR 6) Department, dated 20.12.2011, as follows:-

"3.9.1 Recruitment:

Contractual staff for the Project Management Unit / Divisional Management Units shall be recruited from two sources namely by engaging the eligible retired staff from Tamil Nadu Forest Department or from open market through Outsourcing.

"3.9.1.1 Engagement of retired Staff on Contractual basis:

- *A notice inviting applications from retired staff shall be displayed in all Regional Offices and*



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head office of the Tamil Nadu Forest Department indicating the essential and desirable qualifications.

- *The applications will be scrutinized by a Committee constituted by the Chief Project Director for the purpose, followed by interview of the short listed candidates by the committee. The candidates offered appointment should be subject to physical fitness as certified by a qualified doctor not below the rank of Civil Assistant Surgeon in Government Hospital.*

"3.9.1.2 Employment of Contractual staff through Outsourcing:

- *In the event of sufficient qualified candidates not available. from retired staff, the vacancies may be filled by outsourcing through manpower supply firms.*
- *An advertisement is to be issued in one local daily newspaper inviting Expression of Interest (EOI) from reputed firms indicating the essential and desirable qualifications for each category and number of anticipated personnel requirement.*
- *The Expression of Interest (EOI) received from the firms shall be evaluated by a Committee*



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appointed by the Chief Project Director for this purpose and the Committee will short list at least three firms Sealed bids shall be invited from the short listed firms for contractual services and the same shall be evaluated by the committee.

- *The highest ranked firm shall be approved by the Chief Project Director for providing contractual services for a period of one year, which is subject to extension for further period based on the delivery of services to the satisfaction of Chief Project Director.*
- *The Chief Project Director shall delegate the powers for selection of firms for contractual services at Divisional Management Units level to an appropriate authority to follow the above procedures".*

In view of the above amendment, the recruitment of contractual staff in the project made from two sources viz., engaging the eligible retired staff from Tamil Nadu forest department or from open market through outsourcing. Now the entire project itself completed as such the prayer sought for in the present writ petitions is devoid of merits and liable to be dismissed.



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WEB COPY 11. Accordingly, both the Writ Petitions are dismissed.

Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

17.08.2023

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

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To

1. The Additional Chief Secretary to Government,
The State of Tamil Nadu,
Environment and Forest Department,
Secretariat, Chennai – 9.
2. The Additional Principal Chief Conservator
of Forest (Afforestation) and Chief Project,
Director of Tamil Nadu Biodiversity
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G.K.ILANTHIRAIYAN. J.

rts

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