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W.A.No.143 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR**

AND

**THE HON'BLE MR.JUSTICE K.KUMARESH BABU**

**W.A.No.143 of 2014**

- 1 The State Of Tamilnadu Rep.  
By Its Secretary To Government Municipal Land  
Administration & Water Supply Department  
Fort St. George Chennai -9
- 2 The Commissioner  
Commissionerate Of Municipal  
Administration Chepauk Chennai 600 005.
- 3 The Director Of Town  
Panchayat Chennai 600 018.
- 4 The Regional Director  
Municipal Administration Chengalpattu
- 5 The Regional Director Of  
Municipal Administration Vellore
- 6 The Regional Director Of  
Municipal Administration Salem.
- 7 The Regional Director Of  
Municipal Administration Tiruppur
- 8 The Regional Director Of  
Municipal Administration Thanjavur.

.... Appellants

Vs

- 1 M. Biju Panicker
- 2 R.M.ravi



W.A.No.115 of 2017

- 3 A. Sherin David
- 4 T. Thirumoorthy
- 5 Tmt. K Sumathi
- 6 K. P. Anandhan
- 7 B.Antony Raj
- 8 K.Ramesh Kumar
- 9 P. Rajkumar
- 10 S. Sabastian Aged 33 Years
- 11 Dr. S. Niranjana
- 12 P. Rajendran
- 13 N. Balakrishnan
- 14 P. Chellapandi
- 15 A. Kavitha
- 16 V. Sundarapandiyan
- 17 K. Vetrivelan
- 18 M.Ramadasu S/o Ramadas
- 19 P.V. Selvaraj
- 20 S. Gobinath
- 21 B.Arulsamy
- 22 Dr.M.N. Shivdev Kumar
- 23 C. Sundaresan
- 24 B. Nainar
- 25 S. Rajarajan
- 26 K. Alma
- 27 R. Karunanidhi
- 28 Ilamathi Arul
- 29 S. Muthukrishnaveni
- 30 P. Ramesh
- 31 B. Parivallal
- 32 A. Gnanasekaran
- 33 M.Subbaiah
- 34 M.Shoba
- 35 P. Dharani
- 36 M.shanmugapriya
- 37 Dr. P. Devi
- 38 S. Chinnasamy
- 39 Benita Rani Aged 38
  
- 40 The Union Of India Rep  
By Its Secretary Ministry Of Housing &  
Urban Poverty Alleviation New Delhi



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41 The Director  
Jawaharlal Nehru National Urban Renewal  
Mission (jnnurm) Ministry Of Housing And  
Urban Poverty Alleviation New Delhi

42 The Tamilnadu Slum  
Clearance Board Re. By Its Managing  
Director Chepauk Chennai 600 005.

43 The Commissioner  
Corporation Of Chennai Chennai -3

44 The Commissioner  
Corporation Of Coimbatore Coimbatore.

45 The Commissioner  
Corporation Of Madurai Madurai.

.... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent against the order dated  
09.04.2013 made in W.P.No.26795 of 2012.

For Appellants : Mr.K.V.Sajeev Kumar  
Additional Government Pleader

For Respondents : Mr.B.Gopalakrishnan for R2  
Mr.K.Rajasekaran – for RR 9, R13 to R16  
R18, R20 to R24, R29 to R31, R33, R34 &  
R39  
Mr.R.V.Babu for R42  
Mr.S.Gopinathan  
Panel Advocate for Chennai Corporation-R43  
R1 and R37- left, R44 & R45 – No appearance  
R4 & R8 – Unclaimed, R6 – Left,  
R7, R9, R3,5,10,12,17, 18, 19, 25, 26,28  
32, 35 – No appearance  
R11 – Not claimed, R27 & R36-No such person  
R38 – Not known, RR 40 &41–Service awaited



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**J U D G M E N T**  
**(Order of the Court was made by R.SURESH KUMAR, J.)**

This writ appeal has been directed against the order passed by the writ Court dated 09.04.2013 made in W.P.No.26795 of 2012.

2. The genesis of the case was that the Government of India launched a scheme called Jawaharlal Nehru National Urban Renewal Mission (JNNURM) Programme with two components to cater to the housing and infrastructure needs of the urban poor and slums in the urban areas. The project was aimed to ensure basic services to the urban poor for the Mission cities and the urban agglomeration. The Directorate of Municipal Administration was named as the State level nodal agency to implement the programme in Corporations, Municipalities, Town Panchayats and Tamil Nadu Slum Clearance Board (TNSCB).

3. For the purpose of implementation of the above said project, the Director of Municipal Administration, as the State Level Nodal Agency appointed a group of people as Specialists under different names, such as Livelihood Development Specialist, Research Officer, Research and Training Coordinator, Social Development Officer and so on by separate orders of appointment dated 06.07.2009. These appointments were made indicating that the appointments were initially for a period of three years.

4. During the three years period, the Mission went on and all these people had been working. After completion of the three years period, sometime in 2012, all of a sudden the



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nodal agency ie., the appellant department decided to oust or terminate the services of these incumbents on the ground that the three years period for which they had been initially engaged had come to an end and therefore, they wanted to send them back.

5. Only at that time, the workers joined together and approached this Court by filing the present writ petition seeking a prayer of Mandamus to the appellant Department to continue to engage them, as the Scheme was not closed by three years and it was continued.

6. The learned Judge of the writ Court heard the matter and disposed of the same on 09.04.2013, where a Mandamus had been issued as prayed for. The appellant Department, being aggrieved over the said order, has preferred the present writ appeal.

7. In support of this appeal, learned Additional Government Pleader appearing for the appellants would contend that the very Scheme itself was for three years period and all these people were engaged for three years period ie., the maximum period. Even prior to the completion of three years period, their services could be terminated or disengaged and after completion of the three years whole period, for which they had been engaged, they had no right to continue or seek for continuance, as a matter of right. Therefore, the said decision to dispense with their services could not be found fault with by the learned Judge.



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8. The learned Additional Government Pleader would further argue that, insofar as the performance appraisal of these individuals are concerned, since the project should have been completed and a report should have been sent to the Central Government, which only sponsored the Scheme, before 2014 ie., the deadline that has been fixed, before which the project could not be completed because, it was already delayed by the poor performance of the team of these people and therefore, their further continuance may not augment well to complete the project in time and to send the report to the Central Government. That is one of the additional reason stated by the appellant department for ousting these people on completion of the three years. These points, according to the learned Additional Government Pleader, having not been considered by the learned Judge in proper perspective, allowed the writ petition and therefore, he seeks the indulgence of this Court.

9. Though notice had been served on all the private respondents, except a few who have unclaimed the same when the Tapal was sent to them, none of them appeared before this Court.

10. Be that as it may. In view of the order that is going to be passed in this appeal, the non-serving of few private respondents may not be a matter. Therefore, we proceeded to dispose of this appeal.



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11. Insofar as the two reasons that have been cited by the learned Additional Government Pleader for the appellant is concerned, though initially the Scheme was launched for a period of three years, subsequently since the project could not have been completed, it was decided to be continued for a further period of three years ie., till 31.12.2015. However, for the extended period of further three years, these private respondents had been disengaged for which the reasons stated by them is, the appointments were purely on temporary basis and therefore they were liable to be terminated at the expiry of three years. The second reason cited was that as per the appraisal report stating the poor performance of the private respondents herein, the appellant Department decided to terminate them.

12. These two reasons stated before the learned Judge has been considered and met with reasoning by the learned Judge in Paragraphs 10 to 12 of the impugned order, which are usefully extracted herein.

*" 10. Keeping the above in mind, if we come back to the counter, it is seen that the respondents oppose the prayer made in the writ petition only on two grounds, viz., a) that the appointments were purely on temporary basis, liable to be terminated at the expiry of three years; and b) that upon appraisal of the performance of the petitioners, the respondents decided to terminate.*

*11. I do not think that both the above reasons can be countenanced. Once it is found that a project, which was originally conceived to be in force for a period of three years, stands extended, the first preference should naturally be given to persons, who were associated with the project, except for special reasons. The fact that there is*



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*necessity to have the services of the persons like the petitioners, is not in dispute. Therefore, once the project is continued, the respondents will have no option but to engage the services of some specialists, similarly qualified as the petitioners. In other words, the respondents will be obliged now to replace the existing employees with a new set of employees, until the project comes to a close. This is neither fair to the petitioners nor fair to the scheme. Persons, who have been associated with the implementation of the scheme for the past three years are better suited to continue the scheme, if the scheme itself continues. Therefore, the first reason cannot be accepted.*

*12. The second reason cannot also be accepted, in view of the fact that the respondents are obliged to review the performances of the petitioners once in a year before allowing them to continue for a period of three years. Once it is seen that their services were reviewed and they were found fit and eligible to be continued till the end of their full tenure of three years. Therefore, the reason now stated that the services of the petitioners were not satisfactory, appears to have been invented for the purpose of the case. Hence, the same cannot be accepted. The performance appraisal of the petitioners, given either by the Commissioners of Corporations or the Commissioner of Municipal Administration, are also filed. They disclose that the stand now taken is only for the purpose of defence to the writ petition. Therefore, the reasons on which the respondents seek to reject the prayer of the petitioners cannot be countenanced."*



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13. The two reasons cited by the appellant Department who are respondents before the writ Court have been considered and answered by the learned Judge, with which, we are in agreement.

14. Insofar as the completion of three years period and therefore they are liable to be terminated is concerned, since the project itself has been extended for a further period of three years, the respondents who have already gained some experience and expertise in the project can be continued and dispensing with their services would not augment well to complete the project within the expected timeline. Therefore, the argument in that respect has been considered and rightly rejected by the learned Judge.

15. Insofar as the performance appraisal is concerned, that has also been met by the learned Judge at Para 12 of the order, which we have extracted above. Therefore, for that reason also, the appellant Department could not have taken a decision to terminate or dispense with the services of the private respondents.

16. When that being so, the two reasons having been considered and rejected by the writ court, we do not find any error in the said order passed by the writ court which is impugned herein. In result, the appeal fails and it is dismissed. No costs.

**(R.S.K.,J.)      (K.B.,J.,)**



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Index : Yes/No  
Internet : Yes/No  
NCS : Yes/No  
KST



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1. The Secretary to Union Of India  
Ministry Of Housing &  
Urban Poverty Alleviation New Delhi
2. The Director  
Jawaharlal Nehru National Urban Renewal  
Mission (jnurm) Ministry Of Housing And  
Urban Poverty Alleviation New Delhi
3. The Managing Director  
Tamilnadu Slum Clearance Board  
Chepauk Chennai 600 005.
4. The Commissioner  
Corporation Of Chennai Chennai -3
5. The Commissioner  
Corporation Of Coimbatore Coimbatore.
6. The Commissioner  
Corporation Of Madurai Madurai.



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**R.SURESH KUMAR, J.**  
**AND**  
**K.KUMARESH BABU, J.**

KST

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