



W.P.Nos.19335 and 18552 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.Nos.19335 & 18552 of 2023

and

W.M.P.Nos.18610, 17783, 21804, 22301 of 2023

- 1.T.Kalimuthu
- 2.M.Subramani
- 3.M.Bhuvaneswari
- 4.A.Sivagami
- 5.S.Eswari
- 6.T.Sathiyaraj
- 7.A.Murugan
- 8.G.Suthanthiram
- 9.P.Vijayalakshmi
- 10.G.Rajmohan
- 11.B.Yuvamala
- 12.K.Sivakumar
- 13.I.Francis Xavier
- 14.M.Kumaravel
- 15.J.Sathiyaraj
- 16.C.Muthumanickam
- 17.N.Mohan
- 18.P.Tamilarasu
- 19.M.Subbaiah
- 20.M.Kathamuthu
- 21.M.Prakash
- 22.S.Karthickraja
- 23.K.M.Balu
- 24.R.Kathiravan
- 25.L.Baskaran
- 26.A.Kulandaivel
- 27.K.Venkatachalam
- 28.G.S.Manickavasagam



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29.P.Govindasamy
30.K.Arulsankar

... Petitioners
in W.P.No.19335 of 2023

1. C.S.Tharageswari
2. T.Sankar
3. S.Malarvizhi
4. V.Valarmathi
5. G.Jagathratchagan
6. S.Kanaga Thara
7. R.Jayapal
8. M.Ravichandiran
9. K.Kalaierasi
- 10.P.Thiyagarajan
- 11.P.Umamageswari
- 12.S.Suresh
- 13.S.Manimaran
- 14.S.Senthamizhselvan
- 15.V.Suresh
- 16.D.Ashok Kumar
- 17.M.Kavitha
- 18.K.Nagalakshmi
- 19.A.R.Raja
- 20.A.S.Selvakumar
- 21.A.E.Thanigachalam
- 22.T.V.Vinayagam
- 23.T.K.Raja
- 24.S.M.Vinayagam
- 25.M.Saritha
- 26.L.Durgadevi
- 27.N.Megarajan
- 28.G.Manivannan
- 29.S.Sengottuvel
- 30.M.Sudha
- 31.M.A.Muthamil Selvan
- 32.C.Ramamoorthi
- 33.K.Munsiyabee
- 34.S.Tamil Selvi



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- 35.M.Prabasankar
- 36.A.Balu
- 37.M.Ramesh Kumar
- 38.D.Prabu
- 39.S.Kanchana
- 40.R.Ruba
- 41.T.Rajinikanthan
- 42.J.Sarada
- 43.J.Prabu
- 44.S.Karpagam
- 45.R.Nallathambi
- 46.K.Sakhivelu
- 47.N.Kalaivani
- 48.K.Krishnan
- 49.K.Visagamoorthi
- 50.M.Prema
- 51.R.Kanchana
- 52.K.Subramani
- 53.S.Sasikumar
- 54.G.Ravi
- 55.P.Murugesan
- 56.S.Ranitha
- 57.K.V.Ramkumar
- 58.M.Vasanth
- 59.D.Jayanthi
- 60.K.Selvi
- 61.R.Pandian
- 62.C.Kumar
- 63.K.Palanivel
- 64.P.Jayakodi
- 65.S.Sudakar
- 66.V.Kothanayaki
- 67.D.Govindaraju
- 68.S.Vijayakumari
- 69.S.Padma
- 70.M.Mohan
- 71.V.Kalaiselvan
- 72.R.Anthony Aruldass
- 73.R.Danivel Raj
- 74.K.Srila

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- 75.T.Sivakamasundari
- 76.B.Bakiyaraj
- 77.S.Vinothini
- 78.G.Syed Shahid
- 79.G.Kalilur Rehman
- 80.P.Govindarajan
- 81.B.Jothimurugan
- 82.A.Elangovan
- 83.Y.Philip
- 84.G.Sivakumar
- 85.N.Kothai
- 86.R.Joicemalar
- 87.C.Arockiyammal
- 88.S.Bavani
- 89.K.Suresh
- 90.Kannan B
- 91.Ramkumar G
- 92.Mercy P
- 93.Devendiran D
- 94.G.Sujatha
- 95.Stalin C
- 96.Siddhikkhan S
- 97.Senthilkimar M
- 98.C.Sumathi
- 99.N.Revathi
- 100.A.Sivasankar
- 101.P.K.Bhoopalan
- 102.P.Venkatesan
- 103.S.S.Sudha
- 104.S.Murugan
- 105.P.Prabhakar
- 106.D.Suganthi
- 107.S.Paripooranamary
- 108.M.Prakash
- 109.V.Thirupathi
- 110.S.Velmurugan
- 111.R.Jayapal
- 112.M.Govindasamy
- 113.G.Sampath
- 114.V.Thirumal

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- 115.R.Srinivasan
- 116.S.Sangeetha
- 117.T.Lakshmi
- 118.D.Gayathri
- 119.N.Ganesh
- 120.K.Thangavelu
- 121.A.Kalaivani
- 122.V.Ranganathan
- 123.R.Sundarapandian
- 124.R.Karikalan
- 125.P.Thirumurugan
- 126.M.Rubavathi
- 127.G.Ashokkumar
- 128.M.Shanthi
- 129.P.Kamalam
- 130.S.Ramesh
- 131.V.Sivasubramaniyam
- 132.S.Pandiyan
- 133.R.Rajendran
- 134.A.Sabapathi
- 135.S.Rajakumar
- 136.S.Arunachalam
- 137.R.Thirumalai
- 138.R.Jayaseelan
- 139.R.Kanagaraj
- 140.K.Sundararajan
- 141.R.Ponmalai
- 142.V.Asaithambi
- 143.M.Radhakrishnan
- 144.L.Muniammal
- 145.R.Sridhar
- 146.S.Sivakumar
- 147.V.Jayaprakash
- 148.M.Gnanasekaran
- 149.D.Ranjith Kumar
- 150.V.Palanivel
- 151.P.Vajjiravel
- 152.K.Ramanajothi
- 153.K.Kannadas
- 154.G.Palanivel

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- 155.M.Pugalenth
- 156.R.Thambidurai
- 157.A.Ramesh
- 158.P.Magalingam
- 159.P.Ganga
- 160.S.Dhivya
- 161.G.Vinoth
- 162.K.C.Anandhi
- 163.M.Srinivasan
- 164.N.Senthil
- 165.G.S.Murugesan
- 166.S.Gnanasekaran
- 167.L.Mohankumar
- 168.S.Dhanalakshmi
- 169.P.Balan
- 170.S.Ravikumar
- 171.S.Gomathi
- 172.V.Sekar
- 173.M.Rajamani
- 174.R.Vijayalakshmi
- 175.A.Sundararajan
- 176.M.Sundaramahalingam
- 177.E.Murugesan
- 178.P.A.Immanuel
- 179.P.Ravichandran
- 180.M.Ponnusamy
- 181.M.Chandrasekaran
- 182.K.Shanmugam
- 183.V.Latha
- 184.K.Sasi
- 185.S.Maharajan
- 186.M.Ghouskhan
- 187.K.Sivasubbramaniyan
- 188.R.Kamalakannan
- 189.R.Sivagnanam
- 190.P.Venkatachalapathi
- 191.P.Tamizhselvi
- 192.K.Gowri
- 193.D.Saritha
- 194.L.Bharathi

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- 195.K.Vinoth
- 196.A.Arunraj
- 197.V.Manjanikoother
- 198.C.Selvakumar
- 199.M.Premanandan
- 200.R.Durai
- 201.V.Vasanthakumar
- 202.M.Indumathi
- 203.J.Bhuvaneswari
- 204.M.Amaravathi
- 205.M.Devimeenakshi
- 206.L.Sivakami
- 207.K.Suguna
- 208.P.Mathiyalagan
- 209.S.Balasubramaniyan
- 210.C.Reena
- 211.M.Premanand
- 212.V.Kannan
- 213.N.Balasubramaniyan
- 214.S.Ramanan
- 215.A.Arul
- 216.B.Senthilkumar
- 217.M.Mahendranath
- 218.T.Kalanithi
- 219.G.Sudhakar
- 220.K.Jawahar
- 221.A.Velvizhi
- 222.K.Gnanasoundari
- 223.Felix Maria Xavier P
- 224.K.Pushbalatha
- 225.Prabu D
- 226.V.Jayamoorthy
- 227.A.Ummal Fajriya
- 228.D.Mani
- 229.Ramamurthy D
- 230.A.Malarvizhi
- 231.M.Ahila
- 232.Dhanalakshmi

... Petitioners
in W.P.No.18552 of 2023



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Vs.

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- 1.Union of India,
Represented by its Secretary,
Ministry of Rural Development,
Krishna Bhavan, Dr.Rajendra Prasad Road,
New Delhi – 100 001.
 - 2.State of Tamil Nadu,
Represented by its Additional Chief Secretary,
Rural Development and Panchayat Raj Department,
Fort St. George,
Chennai – 600 009.
 - 3.The Commissioner of Rural Development & Panchayat Raj,
Saidapet,
Chennai – 600 015.
 - 4.The Director – SASTA,
Social Audit Society of Tamil Nadu,
Panagal Maaligai, West Saidapet,
Chennai – 600 015.
 - 5.The Joint Director North,
Social Audit Society of Tamil Nadu,
Panagal Maaligai, West Saidapet,
Chennai – 600 015.
 - 6.The Assistant Director,
Social Audit Society of Tamil Nadu,
Panagal Maaligai, West Saidapet,
Chennai – 600 015.
- ... Respondents
in both writ petitions

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration declaring the practice of imposing artificial break in service to the petitioners who are



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engaged as Block Resource Persons and District Resource Persons under the Social Audit Society of Tamil Nadu (SASTA) every year as illegal and consequently, forbearing the respondents from disengaging them from their respective service.

For Petitioner : Mr.J.Lajapathi Roy
Senior Counsel
for M/s.Lajapathi Roy and Associates
in W.P.No.19335 of 2023

: Mr.I.Abrar Md Abdullah
in W.P.No.18552 of 2023

For R1 : Mr.D.Simon
Central Government Standing Counsel
in both writ petitions

For R2 to R6 : Mr.R.Neelakandan
Additional Advocate General
assisted by Mr.P.Baladhandayutham
Special Government Pleader
in both writ petitions

COMMON ORDER

These writ petitions have been filed to declare the practice of imposing artificial break in service to the petitioners who are engaged as Block Resource Persons and District Resource Persons under the Social Audit Society of Tamil Nadu (SASTA) every year as illegal and consequently, to forbear the respondents from disengaging them from their



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respective service.

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2.The case of the petitioners is as follows :

The petitioners are engaged as District Resource Persons and Block Resource Persons under the Social Audit Society of Tamil Nadu (SASTA). The petitioners have also completed the 30 days Certificate Course on Social Accountability and Social Audit and only after proper training, the petitioners are engaged as District Resource Persons and Block Resource Persons under the SASTA. The petitioners are paid salary out of the Mahatma Gandhi National Rural Employment Guarantee Scheme Funds. The petitioners have been continuously working in the above Scheme, however, the Government has passed the Government Order in G.O.Ms.No.17, Rural Development and Panchayat Raj (CGS-1) Department, dated 22.02.2023, in which, a new set of guidelines have been framed for engaging resource persons for facilitating SASTA. Besides, a notification has also been issued inviting proposals from recruitment service agencies in order to recruit District Resource Persons and Block Resource Persons.



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3.It is the contention of the petitioners that they have adequate experience in the conduct of Social Audit and have been working as per the Annual Master Circular of Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS). Now, the respondents are attempting to replace the petitioners with a new set of temporary employees. Hence, it is the grievance of the petitioners that they should not be replaced and as such, they seek for a writ of declaration as stated *supra*.

4.A counter affidavit has been filed by the 4th respondent and the same has been adopted by respondents 5 and 6. It is the contention of the respondents that SASTA is an independent organisation, established by the State Government to facilitate conduct of Social Audits by Gram Saba. To ensure quality and maintenance of ethical standards in the Social Audit process and to follow-up the Social Audit findings, every Social Audit Unit had appointed adequate number of State, District and Block Resource Persons. The staffing pattern, qualification, etc., of personnel to be recruited for Social Audit Unit (SAU) at the State, District and Block level will be decided by the State Government in consultation with the



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Governing Body of the SAU.

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5.It is the contention of the respondents that the practice of imposing artificial break in service while engaging persons as Resource Persons in SASTA is untrue. Only eligible persons without adverse remarks were engaged on contract basis from 03.03.2022 to 28.02.2023 as per the Contract executed between the Director, SASTA and the petitioners. It was extended for two more months, i.e., from 01.03.2023 to 30.04.2023. Further, one more month extension was given till 31.05.2023, so as to complete the pending works as per the Contract. The contract has expired on 31.05.2023. Thereafter, the contract was not extended, as there was no requirement for Resource Persons in SASTA. Thus, it is their contention that the allegation of disengaging the Resource Persons is not willfull, but on completion of the works under the contract, on which they were engaged. Once they complete the contract, they would be relieved. They would be engaged only on satisfying the requirements for engagement in the subsequent contracts based on Annual Master Circular, prevailing on that period. There is no right conferred on any person based on experience only, when qualifications are prescribed by Annual Master Circulars of Government of India. The petitioners cannot claim priority or



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preference over the persons with prescribed qualifications. Because of the change in Annual Master Circular conditions issued by the Government of India, corresponding orders were issued by Government of Tamil Nadu. The petitioners, whoever satisfies the prescribed qualification as per the prevailing Annual Master Circular, would be engaged on contract, as the condition of the engagement of employees will be changing dynamically depending upon the need of the Government.

6.It is the contention of the learned Senior Counsel appearing for the petitioners that the petitioners have been engaged in the services for the last 9 years under the MGNREGS Scheme. Though they have been engaged for such a long period, now, attempt is being made by the respondents to disengage the petitioners by way of G.O.Ms.No.17, Rural Development and Panchayat Raj (CGS-1) Department, dated 22.02.2023, and to engage a similar set of persons under the same Scheme. Therefore, it is the contention of the learned Senior Counsel that, so long as the Scheme continues, the petitioners, who have acquired adequate training and relevant experience as Block Resource Persons and District Resource Persons under the Scheme, cannot be disengaged.



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7. *Per contra*, learned Additional Advocate General submitted that the petitioners cannot claim any absolute right to continue under the Scheme, as the engagement of personnel under the Scheme is purely based on the Annual Master Circular conditions issued by the Government of India. The respondents are following the Master Circular conditions issued by the Government of India. Further, it is the contention of the learned Additional Advocate General that the petitioners' contract period is already over and therefore, the petitioners cannot claim to continue in the services as a matter of right.

8. Heard the learned counsel on either side and perused the entire materials available on record.

9. It is not in dispute that the petitioners were engaged in the SASTA under the MGNREGS Scheme as Block Resource Persons and District Resource Persons, on contract basis and they have been in service for more than 9 years. The contract has been renewed from time to time and lastly, it has been renewed from 01.03.2023 to 30.04.2023 and further extension was given till 31.05.2023. It is also not in dispute that, every



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year, renewal has been made in respect of petitioners' contract. The very

nature of appointment of petitioners is contractual and the contract makes

it clear that the petitioners have been appointed on the basis of contract to

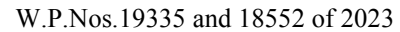
fulfill the objective of MGNREGS Scheme, i.e., to conduct Social Audit.

Therefore, this Court is primarily of the view that, once the petitioners

have been appointed only on contract basis, they cannot claim any right

for regularisation.

10.However, the petitioners have undergone 30 days training as per the Annual Master Circular issued by the Central Government, which fact is not in dispute. It is also not in dispute that the petitioners have been allowed to work for more than 9 years on contract basis. Now, it appears that the Government Order has been passed inviting applications to engage another set of contract employees. The very purpose of engaging the persons on contract basis is to conduct Social Audit. When the petitioners have undergone training as required under the Master Circular issued by the Government of India and have acquired adequate experience in the relevant field, this Court is at loss to understand as to why a similar set of new persons is required to be engaged for the similar work. Though it is true that the petitioners cannot claim any right for regularisation and



11. In *S. Udayakumar and others v. Union of India represented by Secretary, Ministry of Agriculture and others* [W.P.(MD) No.1627 dated 22.03.2018], this Court has held as follows :

“7.This Court finds considerable force in the aforesaid submission of the learned Special Government Pleader for the State Government. This is not a Public Interest Litigation. The petitioners rights have not been shown to be infringed in any manner by issuance of the impugned Government order made in these Writ Petitions. The order impugned in these Writ Petitions are therefore, sustained. But then the Writ Petitions cannot be closed with this. During the course of arguments, the learned Special Government Pleader supported the artificial break in the services of the writ petitioners. Hence this Court issues the following directions:-



(i).It is made clear that the scheme appointees could have no claim for regularisation. 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.



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In view of the comprehensive nature of the relief given to the petitioners herein, there shall be 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.”

12.Considering the above judgment, a learned Single Judge of this Court, in another writ petition in ***W.P.No.6948 of 2021***, order dated 25.01.2023, relating to Agricultural Technology Management Agency (ATMA) Scheme, held that *“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.”* While holding so, it was also made clear that the Scheme appointees could have no claim for regularization, but 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.



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13. Therefore, this Court is of the view that, when the petitioners have already undergone training under the Scheme and have continuously worked as contract employees for more than 9 years, inviting applications from others to replace the petitioners who are already working for many years, does not arise at all. However, it is once again made clear that the petitioners cannot claim any regularization and their services are purely contractual in nature. The respondents shall not disengage the petitioners from SASTA and in fact, the contract can be continued with the petitioner, if the petitioners are fit and not found guilty of any misconduct.

14. Accordingly, these writ petitions are disposed of with the following directions :

- i. The respondents shall not disengage the petitioners from their services, except in the cases where they are unfit or found guilty of any misconduct or involved in any criminal case or act(s) of moral turpitude, etc.
- ii. The respondents shall consider renewal of the contract with the petitioners, instead of disengaging them totally by engaging a new set of persons.



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WEB COPY No costs. Consequently, connected miscellaneous petitions are closed.

29.08.2023

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Internet : Yes
Index : Yes / No
Neutral citation : Yes / No
Speaking order / Nonspeaking order

To

- 1.The Secretary,
Union of India,
Ministry of Rural Development,
Krishi Bhavan, Dr.Rajendra Prasad Road,
New Delhi – 100 001.
- 2.The Additional Chief Secretary,
State of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Fort St. George,
Chennai – 600 009.
- 3.The Commissioner of Rural Development & Panchayat Raj,
Saidapet,
Chennai – 600 015.
- 4.The Director – SASTA,
Social Audit Society of Tamil Nadu,
Panagal Maaligai, West Saidapet,
Chennai – 600 015.



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5. The Joint Director North,
Social Audit Society of Tamil Nadu,
Panagal Maaligai, West Saidapet,
Chennai – 600 015.

6. The Assistant Director,
Social Audit Society of Tamil Nadu,
Panagal Maaligai, West Saidapet,
Chennai – 600 015.



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