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W.P.No.21230 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.21230 of 2023 and  
W.M.P.Nos.20646 & 20647 of 2023

1.K.Jagannath,  
Electrician (B License Holder).

2.R.Manikandan,  
Electrician.

3.R.Saravanan,  
Plumber.

4.R.Munivaradhan,  
Xerox Operator.

5.D.Kumar,  
Office Assistant.

6.C.Hanish,  
Lift Operator.

7.K.Vishnu,  
Life Operator.

8.S.Raman,  
Floor Attender,  
All are Working,  
Anna Centenary Library,  
Kotturpuram, Chennai- 600 085.

... Petitioners

Versus

1.The Government of Tamil Nadu,  
Represented by its Chief Secretary,  
Secretariat, Fort St.George,  
Chennai-600 009.

2.The Secretary,  
Government of Tamil Nadu,



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Department of School Education,  
Secretariat, Fort St.George,  
Chennai-600 009.

3.The Chief Librarian and Information Officer,  
Anna Centenary Library,  
Kotturpuram, Chennai-600085.

4.The Director of Public Library,  
No.737/1, Anna Salai,  
Chennai-600 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records related to G.O.(Ms)No.178 (School Education (Ms) Department) dated 14.10.2022, issued by the 1<sup>st</sup> respondent and the Reply Letter dated 01.11.2021 (Na.Ka.No.60/A.Nu.Nu2021), issued by the 3<sup>rd</sup> respondent and quash the same as illegal and directing the respondents to regularize the services of the Petitioners in Anna Centenary Library, Kottupuram, Chennai as per G.O(Ms)No.131, dated 28.11.2020, with all attendant and consequential benefits of regularization.

For Petitioners : Mr.Ramesh Ganapathy

For Respondents : Mr.Silambannan,  
Additional Advocate General for  
Mr.P.Baladhandayutham,  
Special Government Pleader

### ORDER

This Writ Petition has been filed to call for the records related to G.O.(Ms)No.178 School Education (Public Library-2) Department, dated 14.10.2022 issued by the 1<sup>st</sup> respondent and the reply letter, dated 01.11.2021 in Na.Ka.No.60/A.Nu.Nu 2021 issued by the 3<sup>rd</sup> respondent and



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quash the same as illegal and direct the respondents to regularize the service of the petitioners in Anna Centenary Library, Kottupuram, Chennai as per G.O.(Ms).No.131 Personnel and Administrative Reforms (F) Department, dated 28.11.2020 with all attendant and consequential benefits of regularization.

2.The grievance of the Writ Petitioner is that the issuance of G.O.(Ms)No.178 School Education (Public Library-2) Department, dated 14.10.2022 deals with outsourcing of employment in Anna Centenary Library, Chenna and in newly opened Kalaignar Centenary Library, Madurai and also deals with redeployment of employees from Anna Centenary Library, Chennai to Kalaignar Centenary Library, Madurai. The petitioners have been working from the year 2010 as Electrician, Plumber, Xerox Operator, Office Assistant, Life Operator and Floor Attendar in Anna Centenary Library, Chennai on temporary basis. Now, the above said Government Order has been passed only in order to displace the petitioners. Therefore, the same has been put in challenge in this Writ Petition.



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3. When the Government took the policy decision vide G.O.(Ms)No.178 School Education (Public Library-2) Department, dated 14.10.2022, merely because the petitioners have been working as temporary basis from the year 2010, such Government Order cannot be quashed.

4. On perusal of the records, it is seen that the petitioners have already filed writ petition in W.P.No.11702 of 2017 for regularization of service, however, the same has been dismissed by this Court on 20.07.2017, which has been confirmed by the Hon'ble Division Bench of this Court in W.A.No.1348 of 2017, vide judgment, dated 03.11.2017 holding that the claim of regularization by the temporary employees is not permissible in law and it is for the appellants/writ petitioners to compete in the selection process, however, the respondent may give some weightage by awarding some marks, while they compete in the selection process, keeping in view the services rendered by the appellants/writ petitioners, which would be in proportion to the number of years of services rendered by them. Now, it is the contention of the petitioners that despite such direction of this Court on 03.11.2017, no recruitment process has been commenced, therefore, the only apprehension of the petitioners is, they may be displaced by



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outsourcing.

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5.The learned Additional Advocate General appearing for the respondents submitted that even the outsource is done, the petitioner shall be absorbed by giving priority in outsourcing on certain conditions. According to them, they will be absorbed in the following categories:

| As per the name of the job the employees required are made equivalence with the employees mentioned in the classes of employees in Notification under minimum wages act 1948 (Central Act XI of 1948) for employment in shops and Commercial Establishments. |                    |                             |                                          |                                               |                          |                                                     |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------|-----------------------------|------------------------------------------|-----------------------------------------------|--------------------------|-----------------------------------------------------|
| (See G.O 2(D) No.14 Labour and Employment (J1) Department dated 05.03.2019)                                                                                                                                                                                  |                    |                             |                                          |                                               |                          |                                                     |
| Designation                                                                                                                                                                                                                                                  | Basic Pay (In Rs.) | Dearness Allowance (In Rs.) | PF Employer Contribution (@12%) (In Rs.) | ESI (Employer Contribution) (@3.25%) (In Rs.) | Bonus (@ 8.33%) (In Rs.) | Basic Wage Rate per person per month (CTC) (In Rs.) |
| Officer Assistant                                                                                                                                                                                                                                            | 5457               | 5087                        | 1265                                     | 343                                           | 878                      | 13030                                               |
| Multi-Tasking Staff (Lift Operator / Attender)                                                                                                                                                                                                               | 5396               | 5087                        | 1258                                     | 341                                           | 873                      | 12955                                               |
| Plumber                                                                                                                                                                                                                                                      | 5507               | 5087                        | 1271                                     | 344                                           | 882                      | 13091                                               |
| Electrician                                                                                                                                                                                                                                                  | 5507               | 5087                        | 1271                                     | 344                                           | 882                      | 13091                                               |
| Xerox Operator                                                                                                                                                                                                                                               | 5396               | 5087                        | 1258                                     | 341                                           | 873                      | 12955                                               |

The above said statement is recorded.



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6.In such view of the matter, as and when outsourcing is commenced, the respondents shall give priority to the petitioners and absorb the scale as narrated above. Since the petitioners' right for regularization has already been rejected by this Court, as a matter of right, they cannot seek regularization once again. Besides they have also no right to challenge the policy of the Government.

7.Accordingly, this Writ Petition stands disposed of. Consequently, the connected Miscellaneous Petitions are closed. No costs.

07.08.2023

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

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To

1.The Chief Secretary,  
Government of Tamil Nadu,  
Secretariat, Fort St.George,  
Chennai-600 009.



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Government of Tamil Nadu,  
Department of School Education,  
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N.SATHISH KUMAR, J.  
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