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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.26413, 26415, 26417, 26419, 26421, 26538,  
26576, 26577, 26578, 26581, 26583, 26629, 26631, 26633,  
26634, 26636, 26685, 26692, 26699, 26706, 26715, 26832, 26834,  
26837, 26841, 26844, 26845, 26872, 26882, 26886, 26887, 26878,  
27101, 27103, 27104, 27107, 27108 of 2021 and  
W.M.P.Nos.27871, 27876, 27877, 27878, 27881, 27884, 28029, 28031,  
28032, 28037, 28038, 28077, 28079, 28080, 28082, 28083, 28128,  
28133, 28140, 28147, 28153, 28279, 28283, 28286, 28290, 28291,  
28295, 28297, 28321, 28323, 28327, 28329, 28330, 28580, 28582,  
28575, 28577, 28578 of 2021

W.P.No.26413 of 2021

S.Gobinath

... Petitioner

Vs.

1.The Government of Tamil Nadu,  
Rep by its Chief Secretary,  
Secretariat, Chennai 600 009.

2.The Principal Secretary,  
Rural Development & Panchayat  
Raj Department,  
Govt. of Tamil Nadu,  
Secretariat, Chennai 600 009.



3.The Director of Rural Development  
& Panchayat Raj,  
Panagal Maaligai, Saidapet,  
Chennai 600 015.

4.The District Collector,  
Namakkal District,  
Namakkal 637 001.

... Respondents

PRAYER : This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus to call for the records culminated in the impugned proceedings in Na.Ka.No.21521/2021/P1, dated 23.07.2021 passed by the third respondent and quash the same and consequently, direct the respondents to regularise the service of the petitioner from the date of appointment, with all service benefits like time-scale pay, seniority and promotion within the time frame fixed by this Court.

For Petitioner : Mr.R.Prabhakaran

For Respondents : Mr.G.Nanmaran, Spl.Govt Pleader

### **COMMON ORDER**

The petitioners have filed these Writ Petitions challenging the impugned order in Na.Ka.No.21521 / 2021 / P1 dated 23.07.2021 passed by the third respondent and seeking direction to the respondents to regularise the service of the petitioners from the date of appointment with all consequential and attendant benefits.



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2. The petitioners have been appointed by virtue of G.O.Ms.No.153 Rural Development and Panchayat Raj (CGS I) Department dated 20.10.2006 and G.O.Ms.No.115, Rural Development and Panchayat Raj Department dated 02.07.2007 and posted at various places as Computer Assistants. These candidates were sponsored through Employment Exchange and they attended the necessary examination and proved their efficiency before appointment. However, they have been appointed on a consolidated salary of Rs.4000/- per month. Some of the Computer Assistants who have completed five years of service have been given with regular time scale of pay by virtue of G.O.Ms.No.37 dated 22.03.2017. The petitioners and other similarly placed have completed ten years of continuous service and hence, they ought to have been regularised on completion of two years of service as per G.O.Ms.No.151 dated 16.10.2008. However, their services were not regularised. One of the petitioners filed a Writ Petition in W.P.(Civil) No.148 of 2021 before the Hon'ble Supreme Court and the said Writ Petition was disposed by leaving the matter to be appreciated by the High Court. Subsequently, the petitioners have filed these Writ Petitions seeking the above reliefs.



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3. Heard Mr.R.Prabhakaran, learned counsel for the petitioners and Mr.G.Nanmaran, learned Special Government Pleader for the respondents.

4. Mr.R.Prabhakaran, learned counsel for the petitioners submitted that the Government ought to have issued order to regularise the services of the petitioners. Despite the Government has issued Orders to regularise their services, later it was withdrawn for the disadvantage of similarly placed persons. There should not be any discrimination between similarly placed employees who are also equally qualified and eligible to get the benefits of the erstwhile Government Orders.

5. The learned counsel for the petitioners rely upon the judgment of the Hon'ble Supreme Court held in the case of ***M/s.Sethi Auto Service Station Vs. Delhi Development Authority & Ors***, in support of his contention. In the said case, it is held as under:

*"19. The protection of legitimate expectations, as pointed out in De Smith's Judicial Review (Sixth*



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*Edition), (para 12-001), is at the root of the constitutional principle of the rule of law, which requires regularity, predictability, and certainty in government's dealings with the public. The doctrine of legitimate expectation and its impact in the administrative law has been considered by this Court in a catena of decisions but for the sake of brevity we do not propose to refer to all these cases. Nevertheless, in order to appreciate the concept, we shall refer to a few decisions. At this juncture, we deem it necessary to refer to a decision by the House of Lords in Council of Civil Service Unions & Ors. Vs. Minister for the Civil Service<sup>5</sup>, a locus classicus on the subject, wherein for the first time an attempt was made to give a comprehensive definition to the principle of legitimate expectation. Enunciating the basic principles relating to legitimate expectation, Lord Diplock observed that for a legitimate expectation to arise, the decision of the administrative authority must affect such person either (a) by altering rights or obligations of that person which are enforceable by or against him in private law or (b) by depriving him of some benefit or advantage which either: (i) he has in the past been permitted by the decision maker to enjoy*



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*and which he can legitimately expect to be permitted to continue to do until some rational ground for [1984] 3 All ER 935 withdrawing it has been communicated to him and he has been given an opportunity to comment thereon or (ii) he has received assurance from the decision-maker that they will not be withdrawn without first giving him an opportunity of advancing reasons for contending that they should be withdrawn."*

6. The learned Special Government Pleader appearing for the respondents submitted that the post of Computer Assistants was on temporary basis under Mahatma Gandhi National Rural Employment Guarantee Scheme and hence they are scheme oriented tenure with consolidated pay and hence, they are outside the purview; there is no sanctioned Computer Assistant post with regular time scale of pay exist in Rural Development and Panchayat Raj Department; there is no scope to regularise the service of the petitioners even though they got engaged through some schemes.



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7. Mr.G.Nanmaran, learned Special Government Pleader drew the attention of this Court to the judgment of the Hon'ble Supreme Court held in the case of *State of Karnataka and Ors Vs. Umadevi and Ors* wherein, it is held that *if a person who accepts an engagement either temporarily or casually, cannot say later that he has an enforceable right to be permanently absorbed or claim that the State has a legal duty to make him permanent.*

8. The attention of this Court was also drawn to the order of the learned Division Bench of Madurai Bench of Madras High Court dated 13.09.2023 made in Cont.P.(MD) No.541 of 2020. The said Contempt Petition was filed for not complying the directions given in W.A.(MD) No.1372 of 2019 dated 21.11.2019. It is seen from the said order that the learned Division Bench has given direction to the Principal Secretary, Rural Development and Panchayat Raj Department to take note of the recommendation of the Director of the Rural Development and Panchayat Raj Department dated 28.02.2019 and take a conscious decision as to the



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veracity or otherwise of the request of the individuals for regularisation of their services.

9. During the pendency of the contempt proceedings, the Government has passed a Government Order in G.O.Ms.No.92, Rural Development and Panchayat Raj (E5) Department dated 13.07.2023 by cancelling the earlier G.O.Ms.No.37 dated 22.03.2017 and submitted before the Court that the direction of the Court has been complied. Since the direction has been complied, the contempt petition has been closed.

10. The learned Special Government Pleader further submitted that lot of Writ Petitions have been filed before the Madurai Bench of Madras High Court by challenging G.O.Ms.No.92 dated 13.07.2023. Since G.O.Ms.No.92 dated 13.07.2023 has been passed subsequent to the impugned order, the petitioners as such cannot claim any relief.

11. Since G.O.Ms.No.92 dated 13.07.2023 is staring at the petitioners and like others, the outcome of the Writ Petitions filed



challenging G.O.Ms.No.92 dated 13.07.2023 can be a deciding factor to consider the entitlement of the petitioners to seek regularisation.

**12.** In view of the above change of circumstances, these Writ Petitions are disposed. However, the petitioners are at liberty to file appropriate proceedings depending upon the outcome of the challenge made to G.O.Ms.No.92, Rural Development and Panchayat Raj (E5) Department dated 13.07.2023. Consequently, connected miscellaneous petitions are closed. No costs.

**11.12.2023**

Index : Yes  
Internet : Yes/No  
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**R.N.MANJULA, J.**

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To

1.The Government of Tamil Nadu,  
Rep by its Chief Secretary,  
Secretariat, Chennai 600 009.

2.The Principal Secretary,  
Rural Development & Panchayat  
Raj Department,  
Govt. of Tamil Nadu,  
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