



WEB COPY



W.P.Nos.25899 & 25903 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2023

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. Nos.25899 & 25903 of 2021
and W.M.P.Nos.27375, 27376, 27372 & 27373 of 2021

R.Yuvaraj	...	Petitioner in W.P.No.25899/2021
E.Venkateslu	...	Petitioner in W.P.No.25903/2021
		/vs/

1. The Government of Tamil Nadu,
Represented by its Principal Secretary,
Animal Husbandry, Dairying and Fisheries Department,
Fort St. George,
Chennai – 600 009.

2. The Registrar,
Tamil Nadu Veterinary and Animal Science University,
Mathavaram, Dairy Farm,
Chennai – 600 051.

3. The Dean,
Madras Veterinary College,
Chennai – 7.

... Respondents in both W.P's.

Writ Petitions are filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned order issued by the second respondent vide



W.P.Nos.25899 & 25903 of 2021

7401/ALO/2021 & 7400/ALO/2021 respectively dated 04.08.2021 and quash the same and consequently direct the respondents to regularize the service of the petitioner from the date of initial appointment as Sweeper / Scavenger with all consequential benefits and in accordance with law within a time frame.

For Petitioner	...	Mr.P.Ganesan
(in both W.P's.)		
For Respondents	...	Mr.T.Arunkumar
(in both W.P's.)		Additional Govt. Pleader for R1
		Mr.S.Vijayakumar
		Senior Counsel
		for Mr.G.Bharadwaj for R2 & R3

COMMON ORDER

These Writ Petitions are filed to quash the impugned order issued by the second respondent vide 7401/ALO/2021 & 7400/ALO/2021 respectively dated 04.08.2021 and consequently direct the respondents to regularize the service of the petitioners from the date of initial appointment as Sweeper / Scavenger with all consequential benefits and in accordance with law within a time frame.

2. The petitioners who have been working as 'Sweeper' in the third respondent college for the past 19 years on daily wages have not been regularized so far.



3. Mr.P.Ganesan, learned counsel for the petitioners, submitted that the petitioners claim regularization on par with the similarly placed persons in whose favour, the Courts have already passed orders for regularization; this Court vide order dated 31.01.2019 made in W.P.(MD) No.24081/2018 held that there should be equal pay for equal work and hence there cannot be any discrimination in payment of wages; in yet another decision made by this Court in W.A.No.902 of 2015 dated 24.02.2020, it is held that the post of 'Sweeper' or 'Scavenger' in the Government institution is a *sine qua non* and hence such post deserves to be made available to an institution keeping in view the nature of the requirement.

4. Mr.S.Vijayakumar, learned Senior Counsel for the second and third respondents submitted that so far as these petitioners are concerned, they were not neither appointed through Employment Exchange nor appointed by undergoing selection process in order to extend the benefit of regular time scale or regularization as done for the individuals who fit into some scheme; these petitioners are employed in the third respondent's



W.P.Nos.25899 & 25903 of 2021

college to maintain the hostel and for whom salaries are paid from the funds collected from the students; there is no employer-employee relationship between the petitioner and the college / University.

5. The petitioners have completed nearly 19 years of service however, it is claimed that there is no scheme or rule in place to regularize the workers like the petitioners and to extend the benefit of regular time scale to them. Obviously, for the third respondent college, the regular post of 'Sweeper' and 'Scavenger' is very much essential. Though it is correct on the part of the respondents to submit that without creating any sanctioned posts, the petitioners can neither be absorbed nor be given with revised regular time scale of pay, the petitioners' services cannot be utilized so long without any claim or rule in force.

6. It is further submitted by the respondents that the services of the petitioners are not continuous and hence the petitioners will not fall under the ambit of any Government Order any other scheme.



W.P.Nos.25899 & 25903 of 2021

7. The learned counsel for the petitioners pointed out that one Marimuthu who is also a similarly placed person and for whom regularization has been made already. However, it is clarified by the other side that the said Marimuthu was appointed through Employment Exchange by undergoing a thorough process of training.

8. The petitioners compare themselves with unequals and claim equality. Though the petitioners cannot directly seek the relief of regularization and regular time scale, the first respondent can sympathetically consider the case of the petitioners and pass any scheme or rule to validate the petitioners' intention as expeditiously as possible.

9. In view of the above observations, these Writ Petitions are disposed. No costs. Connected miscellaneous petitions are closed.

30.11.2023

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W.P.Nos.25899 & 25903 of 2021

R.N.MANJULA ,J.

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To:

The Principal Secretary,
Government of Tamil Nadu,
Animal Husbandry, Dairying and Fisheries Department,
Fort St. George,
Chennai – 600 009.

W.P.No.25899 & 25903 of 2021

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