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W.P.Nos.19804 to 19807 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.Nos.19447, 19804 to 19807 of 2017

1. C.Narayanan ... Petitioner in W.P.no.19447 of 2017
- 2 K. Lachumanan ... Petitioner in W.P.No.19804 of 2017
- 3 C. Govindaraj @ Govindhan ... Petitioner in W.P.No.19805 of 2017
- 4 T. Palraj ... Petitioner in W.P.No.19806 of 2017
- 5 V. Muniraj ... Petitioner in W.P.No.19807 of 2017

Vs

- 1 The Deputy Director
Animal Husbandry Department
District Livestock Farm
Hosur, Krishnagiri District
And another
- 2 The Presiding Officer
Labour Court
Salem ... Respondents in above W.Ps

Prayer in W.P.No.19447 of 2017: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus, calling for the records of impugned award passed in I.D. No.37 of 2014, dated 29.12.2016, which was communicated on 02.05.2017 by the Presiding Officer, Labour Court, Salem and quash the same, consequently direct the 1st respondent to absorb the petitioner as Animal Husbandry Assistant and pay all



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service benefits including continuity of service.

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Prayer in W.P.No.19804 of 2017: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus, calling for the records of impugned award passed in I.D. No.41 of 2014, dated 29.12.2016, which was communicated on 02.05.2017 by the Presiding Officer, Labour Court, Salem and quash the same, consequently direct the 1st respondent to absorb the petitioner as Animal Husbandry Assistant and pay all service benefits including continuity of service.

Prayer in W.P.No.19805 of 2017: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus, calling for the records of impugned award passed in I.D. No.40 of 2014, dated 29.12.2016, which was communicated on 02.05.2017 by the Presiding Officer, Labour Court, Salem and quash the same, consequently direct the 1st respondent to absorb the petitioner as Animal Husbandry Assistant and pay all service benefits including continuity of service.

Prayer in W.P.No.19806 of 2017: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus, calling for the records of impugned award passed in I.D. No.39 of 2014, dated 29.12.2016, which was communicated on 02.05.2017 by the Presiding Officer, Labour Court, Salem and quash the same, consequently direct the 1st respondent to absorb the petitioner as Animal Husbandry Assistant and pay all service benefits including continuity of service.

Prayer in W.P.No.19807 of 2017: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus, calling for the records of impugned award passed in I.D. No.38 of 2014, dated 29.12.2016, which was communicated on 02.05.2017 by the Presiding Officer, Labour Court, Salem and quash the same, consequently direct the 1st respondent to absorb the petitioner as Animal Husbandry Assistant and pay all service benefits including continuity of service.



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In all the W.P.s

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For Petitioners : Mr. M.R. Jothimanian
For R1 : Mr. M.S. Prem Kumar
(Government Advocate)
For R2 : Labour Court

COMMON ORDER

Since the issue involved in the present writ petitions are one and the same they are disposed by way of this common order.

2. The writ petitions have been filed seeking to quash the impugned common award passed dated 29.12.2016, which was communicated on 02.05.2017 by the Presiding Officer, Labour Court, Salem and consequently direct the 1st respondent to absorb the petitioner as Animal Husbandry Assistant and pay all service benefits including continuity of service.

3. It is the case of the petitioners that the petitioners were appointed as casual laborers by the 1st respondent department on temporary basis and posted at Livestock Farm, Hosur in the month of June of 2011, under the scheme namely National Agricultural Development Project (NADP) introduced by the Government of Tamil Nadu vide G.O. Ms.No.123, Animal Husbandry Department, dated 18.03.2008. The petitioners were worked as daily wages



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for maintaining the animal husbandry farm of the 1st respondent at Hosur and they have also completed more than 480 days as per the Industrial Disputes Act without any break. Even though, the petitioners worked for more than 2.5 years, all of a sudden, the petitioners were stopped without any prior notice from the 1st respondent, stating that the National Agricultural Development Project introduced by the Government of Tamil Nadu vide G.O. Ms. No.123, Animal Husbandry Department, dated 18.03.2008 was closed. Thereafter, the petitioners requested the 1st respondent and other higher officials to absorb their services in the department and the same was not considered. In view of the above, the petitioners raised an Industrial Dispute against the 1st respondent before the Labour Court, Salem seeking for reinstatement into service and other benefits. The learned Presiding Officer, Labour Court, Salem, on examination of the petitions filed by the petitioners herein and 1st respondent herein, has dismissed the case. Challenging the said orders, the petitioners have filed the Writ petitions.

4. The learned counsel for the petitioners submitted that the award of the Labour Court in the case of the petitioners is totally illegal, unjust, arbitrary and against the probabilities of the case. The second respondent has



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failed to consider that the petitioners were appointed as daily wages and worked more than statutory period in the first respondent farm without any break and is entitled to get absorption on par with similarly placed persons, who were absorbed in the first respondent farm and now they are working. The learned counsel further submitted that similarly placed persons were regularized in the post of Animal Husbandry Assistant vide G.O. Ms.No. 157, Animal Husbandry, Dairy and Fisheries Department, dated 09.12.2011. However, the tribunal have not considered the grievances of the petitioners in absorbing them in the regular post of Animal Husbandry Assistant and hence, the award of the second respondent is totally against the livelihood of the petitioner and therefore, it is totally illegal and unsustainable either in law or facts of the case.

5. The learned counsel for the first respondent submitted that the petitioners were appointed only as daily wages under the central Government scheme National Agricultural Development Project (NADP) vide State Government G.O.Ms.No.123, dated 18.03.2008 at Livestock Farm, Hosur in the month of June 2011. The petitioners were appointed and worked as daily wages till the last date of their termination from the said farm and also their



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daily attendance was maintained only as daily wages labourers by the first respondent. The learned counsel for the first respondent further submitted that the petitioners who are appointed as daily wages under the NADP scheme by the first respondent are not liable to the Industrial legislations and doesn't have any right in claiming permanent employment in the office of the first respondent. Therefore, the learned counsel prays to set aside the impugned order.

6. The first respondent has filed a counter in this matter and the relevant paragraphs are extracted hereunder:

"4. With regard to para 2 of the affidavit, it is submitted that the contentions of the petitioner are not correct and hereby denied as false. It is submitted that Mr. K. Lachumanan, the petitioner herein was engaged as Casual Labour on daily wage basis by this respondent for the scheme of National Agricultural Development Project during June 2011. He was engaged in cleaning the Cattle shed, cutting of grass, feeding the cattles, uploading and downloading cattles etc. It is submitted that the petitioner was engaged as and when required and he was stopped from engaging for the said work since the said Government Scheme was closed. It is



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submitted that the contention of the petitioner that he worked for more than 480 days is false and hereby denied.

5. With regard to para 3 of the affidavit, it is submitted that the contentions of the petitioner are not correct and hereby denied as false. It is submitted that after finishing the above said project, the petitioner's daily wage service was not required and hence he was stopped. Further, there is no necessary to issue show cause notice to the petitioner before stopping him from his daily wage work since there is no provision or rule to issue such notice. The petitioner himself knows that his work is only for the said scheme only and there is no chance to absorb him for service in the department.

.....

8. With regard to Grounds (b) to (d) of the affidavit, it is submitted that the allegations are not correct and hereby denied. It is submitted that the petitioner herein was engaged as Casual Labour on daily wage basis by this respondent for the scheme of National Agricultural Development Project during June 2011. He was engaged in cleaning the Cattle shed, cutting of grass, feeding the cattles, uploading and downloading cattles etc. It is submitted that the petitioner was engaged as



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and when required and he was stopped from engaging for the said work since the said Government Scheme was closed. It is submitted that the contention of the petitioner that he worked for more than 480 days is false and hereby denied. It is submitted that the contentions of the petitioner are not correct and hereby denied as false. It is submitted that after finishing the above said project, the petitioner's daily wage service was not required and hence he was stopped. Further, there is no necessary to issue show cause notice to the petitioner before stopping him from his daily wage work since there is no provision or rule to issue such notice. The petitioner himself knows that his work is only for the said scheme only and there is no chance to absorb him for service in the department.

.....

10. With regard to Grounds (i) to (m) of the affidavit, it is submitted that the contentions of the petitioner are not correct and hereby denied as false. It is submitted that the Hon'ble Supreme Court of India in its order dated 21.02.2014 in C.A.No.2726-2729/2014 has held as follows:

"Even temporary, Adhoc or daily base services for a long number of years, let alone serve for one to two year will not entitle such employee to claim regularization, if he is not working against a sanctioned



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post. Simpathy and sentiment cannot be grounds for passing order for regularization in the absence of any legal right".

It is submitted that the above said judgment squarely applies to the petitioner herein and hence the petitioner's claim has no merits and it deserves no consideration."

7. Heard the learned counsel for the petitioners as well as learned counsel for the first respondent and perused the materials available on record.

8. The facts of the case are not in dispute. It is the grievance of the petitioners that the petitioners were engaged as casual laborers by the 1st respondent department on temporary basis and posted at Livestock Farm, Hosur under the scheme namely National Agricultural Development Project (NADP) introduced by the Government of Tamil Nadu vide G.O. Ms.No.123, Animal Husbandry Department, dated 18.03.2008 and they claimed that they have completed 480 days without any break and some of the persons service were regularized.

9. On perusal of typed set of papers and original documents, it is seen



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that in order to prove the case, the petitioners have not produced any document before the Labour Court as well as this Court except their attendance register.

It is admitted fact that the petitioners were engaged as Casual Labour on daily wage basis by the respondent for the NADP scheme. After completion of the said project, the petitioners service were stopped as their service was not necessary. It is to be pointed out that the appointment of the petitioner is only based on the scheme and once the scheme comes to an end, automatically the service of the petitioner cannot be continued and they cannot claim reinstatement upon their ouster from service. In the absence of any proof, this Court cannot interfere with the impugned orders passed by the second respondent and this court does not find any merit in the writ petitions and the same are liable to be dismissed.

10. In the result, the writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

09.08.2023

rli/stn



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Index : Yes / No

Speaking order / Non speaking order

Netru Citation Case : Yes / No

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