



W.P.Nos.162 & 164 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. Nos.162 & 164 of 2020

W.P.No.162/2020

K.Murugesan

... Petitioner

/vs/

1. The State of Tamil Nadu,
Rep. by its Secretary,
Agricultural Department,
Fort St. George,
Chennai – 600 009.

2. The Director,
Department of Agricultural Marketing
and Agri Business,
Guindy, Chennai – 600 032.

3. The Secretary,
Dharmapuri Market Committee,
Mathikonpalayam,
Dharmapuri – 636 002.

4. The Supervisor,
Regulated Market,
Pennagaram – 636 810.
Dharmapuri District.

... Respondents



W.P.Nos.162 & 164 of 2020

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the impugned proceedings dated 22.07.2019 in Na.Ka.No.Mooa/3334/2014 on the file of the third respondent to quash the same consequently directing the respondents to regularize the petitioner service in the permanent post from the date of appointment with all consequential benefits and attendant benefits within a stipulated time.

W.P.No.164/2020

K.Ponnusamy

... Petitioner

/vs/

1. The State of Tamil Nadu,
Rep. by its Secretary,
Agricultural Department,
Fort St. George,
Chennai – 600 009.
2. The Director,
Department of Agricultural Marketing
and Agri Business,
Guindy, Chennai – 600 032.
3. The Secretary,
Dharmapuri Market Committee,
Mathikonpalayam,
Dharmapuri – 636 002.
4. The Superintendent,
Regulated Market,



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Bye-pass Road,
Harur – 636 903.
Dharmapuri District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus to call for the impugned proceedings dated 22.07.2019 in Na.Ka.No.Mooa/3334/2014 on the file of the third respondent to quash the same consequently directing the respondents to regularize the petitioner service in the permanent post from the date of appointment with all consequential benefits and attendant benefits within a stipulated time.

For Petitioners ... Mr.R.Ezhilarasan
(in both petitions)
For Respondents ... Mr.P.Sanjai Gandhi
(in both petitions) Government Advocate for R1,R2&R4

COMMON ORDER

This Writ Petition has been filed to call for the impugned proceedings dated 22.07.2019 in Na.Ka.No.Mooa/3334/2014 on the file of the third respondent and to quash the same and consequently to direct the respondents to regularize the petitioners' service in the permanent post from the date of appointment with all consequential and attendant benefits within a stipulated time.



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2. The petitioners have joined on 05.05.2008 and 13.05.2003 respectively, as Watchman with the third respondent. The grievance of the petitioners is that they are full time employees and they are working from 13.05.2003 & 05.05.2008 but their services were not regularized and so far they have been given with only consolidated wages of Rs.1,500/- per month. The petitioners claim that similarly placed persons in other departments who were also executing same functions, have been given with higher wages and in fact there were regularized on being given with a time scale of pay.

3. Mr.P.Sanjai Gandhi, learned Government Advocate for the respondents submitted that in the employment conditions itself it has been clearly stated that the employment is on temporary basis and it can be terminated at any point of time; hence they cannot claim to regularize their services.

4. The respondents cannot retain a person by extracting their services for several years and then say that they are temporary employees



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and their wages will be revised and that they cannot be regularized. The petitioners have got a real grievance for not having their services considered either for granting regular time scale of pay or for regularization. As such there is no scheme in place. Even though it was submitted by the learned Government Advocate that the third respondent has considered to increase the wages of the petitioner from Rs.1,500/- per month to Rs.248/- per day, that was also not implemented.

5. In the impugned order dated 22.07.2019, it is stated that the petitioners have been outsourced through National Security Services, Jargu, Dharmapuri. Their initial appointment order does not state that they have been outsourced through some agencies. Whatever may be the case, it is up to the third respondent to accommodate the recruitment according to his convenience. The third respondent is the Paying Master for the petitioners and hence he cannot wiggle out of his responsibility of paying at least the minimum wages to the petitioners, in accordance with the statutory protection given to the petitioners in this regard.



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6. Despite the third respondent is getting the services of the petitioners for more than decades and he had not chosen to absorb them in any regular vacancy. It is up to the petitioners to file appropriate proceedings if they have not been given with minimum wages. In whatever capacity the petitioners were recruited, the third respondent cannot deny them the minimum wages which is in-force as on today. It would be appreciable if the respondents himself come out with any scheme to absorb the petitioners considering their long services for a very low pay.

7. With the above observations, these Writ Petitions are disposed. No costs.

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Index: Yes / No
Speaking order / Non-speaking order
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To:

WEB COPY

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R.N.MANJULA ,J.

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