



W.P.No.7154 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2024

CORAM

THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.P.No.7154 of 2020

and

W.M.P.No.8533 of 2020

1. K.Dhanasekaran
2. Tamilselvi
3. Ambika
4. Kavitha
5. Annamalai
6. Kuppan
7. Kathirvelu
8. Veeraragavan

...Petitioners

Vs.

1.The State of Tamil Nadu
rep. by its Secretary to Government,
Animal Husbandry and fisheries Department,
Fort St. George,
Chennai - 600 009.

2.The Director of Animal Husbandry and veterinary services,
Annasalai
Teynampet,
Chennai.

3.The Assistant Director of Animal
Husbandry and veterinary services,
Sheep Farm, Mukuntharayapuram,
Vellore District.

...Respondents



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Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent pertaining to its Letter in Na.Ka.No.55098/N1/2019 dated 24.01.2020 and to quash the same and consequently, direct the 1st respondent to regularize the service of the petitioners on completion of ten years of service and to extend all service and monetary benefits.

For Petitioner : Ms.S.Esairani Narasimman

For Respondents : Mr.M.Muthusamy,
Government Advocate

ORDER

The instant Writ Petition has been filed to quash the rejection order passed by the 2nd respondent vide order dated 24.01.2020.

2.The learned counsel appearing for the petitioners would vehemently submit that, the petitioners have been working as daily wage employees in the Animal Husbandry and veterinary Sheep Farm since 1997 and even today, they are in service. Therefore, by virtue of G.O.Ms.No.134, Animal Husbandry, Dairying and Fisheries (AH6) Department, dated 12.02.2007, they are entitled for regularization.

3.Further, the learned counsel for the petitioners invited the attention of this Court about the previous rounds of litigations, wherein this Court directed the respondents to consider the representation of the petitioner. It is the



contention of the petitioners that the respondents erroneously rejected the representation and hence, she prayed to allow this Writ Petition.

4.*Per contra*, the learned Government Advocate would vehemently contend that, any post in the Animal Husbandry, Dairying and Fisheries Department is a public employment. Therefore, any recruitment to the said Department is to be made in accordance with the recruitment rules. In this regard, the learned Government Advocate relied upon the Judgment of the Hon'ble Supreme Court in **State of Karnataka vs. Umadevi [AIR 2006 SC 1806]** and **The Secretary to Government, School Education Department v. M.Govindasamy and others** reported in **2014 (3) Scale 34**. Hence, he contended that the impugned rejection order is valid in Law.

5.I have given my anxious consideration to either side submissions.

6.It is an admitted fact that the petitioners' prayer is only based upon his continuance in service for more than ten years, and not based upon any evidence to show that his initial appointment was in accordance with the recruitment rules. Therefore, as rightly contended by the learned Government Advocate, for such post without following the recruitment rules, the petitioners cannot seek appointment as a matter of right, since such appointment would



run contra to Articles 14 and 16 of the Constitution of India.

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7. In this regard, it is useful to refer to the Judgment of the Hon'ble Supreme Court of India in **State of Karnataka vs. Umadevi** reported in **AIR 2006 SC 1806**. The relevant paragraph is paragraph 39, which reads as follows:

“39. There is no fundamental right in those who have been employed on daily wages or temporarily or on – contractual basis, to claim that they have a right to be absorbed in services.

The right to be treated equally with the other employees employed on daily wages, cannot be extended to a claim for equal treatment with those who were regularly employed. That would be treating unequals as equals. It cannot also be relied on to claim a right to be absorbed in service even though they have never been selected in terms of the relevant recruitment rules.”

8. In yet another Judgment of **The Secretary to Government, School Education Department v. M. Govindasamy and others** reported in **2014 (3) Scale 34**, the Hon'ble Supreme Court held as follows:

“Mere continuation of service by a temporary or ad-hoc or daily-wage employee, under cover of some interim orders of the Court, would not confer upon him any right to be absorbed into service, as much service would be “litigious employment”. Even temporary, ad-hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularization, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularization in the absence of a legal right.”

In view of the above settled legal principles, this Court finds no merit in this



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In the result, this Writ Petition stands dismissed. No costs. Consequently,
connected Miscellaneous Petition is closed.

18.10.2024

Index :Yes/No
Speaking order :Yes/No
Neutral citation :Yes/No
mps

To

1.The Secretary to Government,
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Animal Husbandry and Fisheries Department,
Fort St. George,
Chennai - 600 009.

2.The Director of Animal Husbandry and veterinary services,
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Teynampet,
Chennai.

3.The Assistant Director of Animal
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C. KUMARAPPAN, J.

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