



W.P. No. 12719 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 21.10.2024

ORDERS PRONOUNCED ON : 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P. No. 12719 of 2018

and

W.M.P. Nos. 14903 & 14904 of 2018

1.J. Sudhakar
2.S. Senthil

... Petitioners

Vs.

1.Government of Tamil Nadu,
Rep., by its Principal Secretary,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai – 600 009.

2.The Director/Commissioner,
Rural Development & Panchayat Raj Department,
Panagal Maaligai, Saidapet,
Chennai – 600 015.

3.The District Collector,
Dharmapuri District.

4.The Block Development Officer (BP),
Palacode Panchayat Union,
Palacode, Dharmapuri District.

... Respondents

[R4 amended as per order dated 27.06.2018 in
W.M.P. No. 17555 of 2018 in W.P. No. 12719 of 2018]

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the first respondent to consider the claims of the



petitioners for regularisation of services Computer Operators from the date of his original appointment with all attended benefits and pass appropriate orders based on the G.O.Ms.No.878, Rural Development Department, dated 15.05.1981.

For Petitioners : Mr. P. Nethaji
For Respondents : Mr. G. Amedius,
Government Advocate for RR1 to 3
Mr. V. Jayaprakash Narayanan, for R4

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus seeking to direct the first respondent to consider the claims of the petitioners for regularisation of services as Computer Operators from the date of their original appointment with all attended benefits and pass appropriate orders based on the G.O.Ms.No.878, Rural Development Department, dated 15.05.1981.

2. The case of the petitioners is that, they are working as Computer Operators in fourth respondent-Panchayat Union. The first petitioner was appointed on 11.08.2004 and the second petitioner was appointed on 22.06.2005. Both petitioners possess Diploma in Computer Education qualification. The nature of the work they are discharging is, preparing letters for all seats and the reports as to all scheme works, uploading the details of payment of salary to all staff and taking printout. Uploading the replies being given by the officials to the applicants, for the petitioners as given on grievance day. On-line petitions uploading to Chief Minister's cell,



uploading the scheme reports in the website of Rural Development Department. To collect the reports, as to the toilets being constructed under Nirmal Bharath Scheme, uploading application being received for marriage fund under Moovalur Ramamirtham Ammaiyar Scheme, reports as to the houses constructed under Indira Memorial Scheme, reports as to Green Houses constructed under Chief Minister Scheme, reports of the works under THAI Scheme, Rural infrastructure Scheme works reports, combined infrastructure scheme works reports, uploading of payment details to Noon Meal Scheme staff and handling the software for uploading all works of BDO office. They are also attending the work of all software related works pertaining to Mahatma Gandhi National Rural Employment Scheme, Housing Scheme, Prime Minister Housing Scheme, Swatch Bharath Scheme and complaint regarding water problem. From their date of appointment, they have been continuously working as Computer Operator and discharging their duties without any complaints or interruption and both are qualified Computer Operators.

3. The petitioners have been employed in the existing post of Computer Operations in the fourth respondent-Panchayat Union on daily wage basis. The first petitioner has completed more than 14 years and the second petitioner has completed more than 13 years at the time of filing of this writ petition.



4. The Government has issued G.O.Ms.No.878, Rural Development and Panchayat Raj Department, dated 15.05.1981, providing for regularisation of the contingent full time staff, in respect of Panchayat Union, for those who have completed 10 years of service as on 01.04.1981. According to the petitioners, the very same Government order has also provided for bringing the contingent staff on a regular time scale in future. Following the G.O.Ms.No.878, Rural Development and Panchayat Raj Department, dated 15.05.1981, the State Government has issued another order in G.O.Ms.No.267, Rural Development Department, dated 22.12.1999 and delegating the power to the District Collector of the concerned District to regularise the services of the contingent employees, who have completed 10 years of service. It is an admitted fact that, in accordance with the said Government orders, more than 2000 daily wage employees services have been regularised by various District Collectors.

5. The Government issued another Government Order in G.O.Ms.No.55, Rural Development Department dated 15.06.2006 in line with G.O.Ms.No.878, dated 15.05.1981 providing for regularisation of Hand Pump Operator Assistants, who have completed 10 years of service. The employees, who have appointed from 1982-1997 were regularised from the date of completion of 10 years of service. In case, an employee has not completed 10 years of service, he will be allowed to continue on a



daily wage basis and the concerned District Collector has to send a proposal to the Director of Rural Development Department for the purpose of regularising the services of the remaining daily wage employees. Infact, such letter was sent on 18.12.2012 for regularisation of some of the employees who are appointed like the petitioners herein. Further, according to the petitioners, from 2007 onwards, the Government has been taking a policy decision consistently for regularisation of all casual employees, daily rated employees and temporary employees etc. However, unfortunately despite the requirement of Computer Operators for carrying out various types of works in all the Panchayat Unions, the grievance of the petitioners have not been redressed by the Government or by the concerned authorities. Under these circumstances, the petitioners are constrained to approach this Court by filing the present writ petition seeking writ of mandamus to direct the first respondent to consider the claim of the petitioners for regularisation of their services as Computer Operators from the date of their original appointment with all attendant benefits by following G.O.Ms.No. 878, Rural Development Department dated 15.05.1981.

6. Mr. P. Nethaji, learned counsel appearing for the petitioners would submit that the petitioners have been working uninterruptedly from their initial appointment and their job requirement is full time and continuous and they have been discharging their duties which was actually meant for regular appointment. He further contends



that though the Government has issued several orders for regularisation of casual, temporary and daily rated employees, the petitioners have been employed only as daily rated employees. The petitioners approached the respondents for regularisation of their service, as they have completed more than 10 years and as there was no response from them, the petitioners are constrained to file this writ petition.

7. Learned counsel for the petitioners in support of his contentions would draw the attention of this Court to the decision of the learned Single Judge of this Court dated 16.11.2010 in W.P. No. 23410 of 2010 in the case of G.K. Govindaraj vs. State of Tamil Nadu and Others. The relevant paragraphs 4 to 6 are extracted herein under:

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“4. The learned counsel for the petitioner contended that the Government having ordered to grant regularisation to persons on completion of ten years of Part Time/Daily wage service by G.O.Ms. No.22 dated 28.02.2006, the third respondent is bound to regularise the services of the petitioner, who is in continuous employment of the fourth respondent from 05.03.1997, on completion of his ten years of service.

5. Similar issue was considered by me in W.P. No. 4639 of 2007 dated 16.09.2010, wherein I have followed the earlier order made in W.P. (MD). No. 11707 of 2006 dated 22.12.2006, which was confirmed in W.A. (MD). No. 91 of 2007 dated 25.10.2007. Another similar writ petition was allowed in W.P. No. 230 of 2009



dated 03.08.2009 and by Special Leave Petition in March 2010.

Further, the order passed in W.P. No. 13499 of 2008 dated 12.6.2008 was also confirmed in M.P. No. 1 of 2009 in W.A.(SR). No. 75291 of 2009 dated 07.10.2009. The Special Leave Petition filed against the order made in W.A.Nos.151 and 225 of 2009 dated 23.06.2009 was also dismissed by the Supreme Court on 11.02.2010.

6. In the light of the above judgments, which have already been implemented by the Department, no purpose would be served in retaining this writ petition. Therefore, this writ petition is allowed with a direction to the third respondent to pass orders on the proposal already submitted by the fourth respondent as early as 27.11.2008 and pass orders granting regularisation of the petitioner's service on his completion of ten years of service with time scale of pay and all other benefits within four weeks from the date of receipt of a copy of this order."

8. Learned counsel for the petitioner also has drawn the attention of this Court to the judgment of the Division Bench of this Court in the case of ***The State of Tamil Nadu and Others vs. M. Kuruppaiyan in W.A.No.1594 of 2017, dated 28.11.2017.*** The Division Bench after considering various Government orders and instructions has held, as herein under: -

"16. Material on record discloses that the consolidated pay has also been periodically increased. Clause 5 (6) of G.O.Ms.No.84



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Rural Development and Panchayat Raj (CGS - 1) Development dated 4/8/2009 states that the posts of computer assistant sanctioned shall be filled up through employment exchange in accordance with the qualification and procedure already ordered. All the respondents have been appointed pursuant to G.O.Ms.No.153, Rural Development and Panchayat Raj (CGS-I) Department, dated 20/10/2006, wherein outsourcing them, on contract basis, has been permitted.

17. When Government had permitted the District Collectors, to select two computer assistants, per block, by calling for a list from the employment exchange and conducting a simple test for them or by outsourcing them locally, on contract basis and place them on a consolidated pay of Rs.4,000/- p.m., which has been gradually increased, such of those appointed by the District Collectors, by outsourcing method, cannot be said to be a back door entry, as such entry was permitted, when the respondents were inducted as computer assistants.

18. Going through the G.Os extracted supra, and having regard to the method of selection, and continuation of the respondents, as computer assistants, for ten years, we are of the view that the directions of the writ Court, to consider the representations of the respondents, for allowing them to take part in the ensuing special qualification post for the post of Junior Assistant, as notified in G.O.(MS) No.37, Rural Development and Panchayat Raj Department, dated 22/3/2017, cannot be said to be manifestly illegal. Having worked for ten years as computer assistants on consolidated pay, under the then Government Orders,



which permitted outsourcing, they cannot be allowed to stand apart from those who were appointed through employment exchange.

Expectation of a person who had worked for long number of years on consolidated basis, in the case on hand, for ten years, to get absorbed, after competing with others, cannot be said to be illegitimate. In fact, at paragraph No.3 of G.O.Ms.No.37, Government have considered the request of one time relaxation of reservation.

19. At paragraph No.8 of the said G.O., Government ordered as hereunder:-

(i) To downgrade 858 posts of Assistants created for MGNREGS as Junior Assistants so as to absorb 906 Computer Assistants, who have completed 5 years of service as on 30.09.2015 working under MGNREGS and in the existing vacancies of Junior Assistant posts created for MGNREGS in the Junior Assistant time scale or pay.

(ii) To issue necessary amendments to the Special Rules for Tamil Nadu Ministerial Service after absorption.

(iii) These Computer Assistants are to be absorbed as Junior Assistants by conducting a special qualifying test by TNPSC in the posts already sanctioned under MGNREGS only, to follow rule of reservation. Hence, if the MGNREG Scheme stopped, the measures to be taken by the Government for the present staff working



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under MGNREGS will also be applicable to these Computer Assistants who are to be absorbed as Junior Assistants.

(iv) The vacancies arises out of absorbing the Computer Assistants as Junior Assistants should not be filled through outsourcing and the work may be continued to be discharged by the Junior Assistants as they are already trained in Computer.

20. For the reasons stated supra, we are not inclined to interfere with the order passed by the writ Court in W.P.Nos.8979 of 2017 and 28961 of 2014, dated 27/4/2017. Writ Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.”

9. Learned counsel for the petitioner has placed a reliance on the order of this Court dated 28.08.2019 in W.P. No. 6595 of 2018 passed by the learned Single Judge and had drawn the attention of this Court to the relevant paragraphs: -

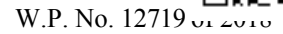
“20.As rightly contended by the learned counsel for the petitioners, a number of Government Orders have been issued over a period of time, setting a trend by the Government of a paradigm shift in their policy that the continuous employment of casual employees need to be regularized at sometime, as otherwise, keeping such persons on a temporary or casual basis for indefinite period would amount to exploitation. In fact, the Government itself,



in respect of the Rural Development Department, had issued G.O.Ms.No.878 dated 15.05.1981, followed by two Government Orders, referred to above, providing for regularization of similar casual employees/contingent staff. When the Government has taken action in pursuance of the Government Orders, with the intention to uplift the contingent staff from the state of uncertainty to the state of certainty by granting them the benefit of regularization, this Court is unable to see as to how Umadevi's case can be pressed into service to resist the claim of the petitioners herein.

21. When the Government itself, as a matter of policy, has issued a number of Government Orders in regularizing temporary casual employees and contingent staff employed in various departments and such benevolent action by the Government has benefited thousands of employees in the past, this Court does not understand as to how the present petitioners' claim could be ignored. In the said circumstances, the opposition to the relief claimed by the petitioners amounted to discriminatory treatment, which cannot stand the test of equality Clause enshrined in Articles 14 and 16 of the Constitution of India.

22. Even otherwise, when the work has been extracted from these petitioners full time, day in and day out, by keeping them as daily rated employees is unfair and opposed to good conscience. These petitioners have accepted such unfair treatment only with a hope that at some point of time their claim for regularization could be considered. Therefore, the petitioners cannot be allowed to languish as daily rated employees for indefinite period and be denied of the regular benefits of the Government employees



23. *In the above circumstances, this Court is of the view that by virtue of long years of employment by these petitioners, their claim for regularization is completely justified and such claim, if not considered by the Government would only result in grave injustice being done to these petitioners.*”

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employees who have served continuously for a period of 10 years as on 01.01.2006.

Infact, in a number of writ petitions, this Court has followed G.O.Ms.No.22, dated 28.02.2006 directed the Government to draft regularisation of the casual employees.

11. In W.A.No. 1594 of 2017, the Division Bench while dealing with the identical matter with respect to the post of Computer Operators, a direction was issued to regularise them as Junior Assistants, which post are available in the Panchayat Union. In W.P. No. 6595 of 2018, while dealing with a writ petition filed by the Computer Operators, who are working on daily wages who are similarly situated persons to the petitioners held that their claim for regularisation is completely justified and such claim, if not considered by the Government would only result in grave injustice to the petitioners and accordingly, directed the Government and the Competent Authority to initiate steps to regularise the services of the petitioners, as Computer Operators from the date of their original appointment. It is also directed the Government to consider the petitioners therein for regular appointment in allied posts based on their qualifications, by giving them the benefit of the past service as Computer Operators.

12. On the other hand, Mr.G.Ameedius, learned Government Advocate appearing for the respondents 1 to 3 would submit that the petitioners who are not



appointed against the sanctioned vacancies and the employment of these petitioners as Computer Operator was only temporary arrangement, since the Typist employed in the Panchayat Union was originally not compared with the computer operation. He further contends that, at the time of appointment of the petitioners, there were no due selection conducted for their appointment. Therefore, the learned Government Advocate contends that the appointment of the petitioners were not regular and accordingly, they are not entitle for the regularisation as they claim in this writ petition.

13. Admittedly, in the present writ petition, this Court by its order dated 04.06.2018 directed the respondents to maintain status quo as on that date with regard to the employment of the petitioners and since there is no impediment for the respondents to release the salary of the petitioners for the period they have worked, the respondents are directed to release the salary of the petitioners. Thereafter, the petitioners filed a contempt case in Cont. P. No.1549 of 2018 and while closing the contempt case by order dated 16.08.2018, it is noted that the petitioners were allowed to work after filing of the contempt petition and the payments were also made to them for the period they have worked. In view of the same, it has to be construed that the petitioners are continued to discharge their work, as Computer Operators since 2018 to till date. Though the fourth respondent denied the appointment of the petitioners,



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as Computer Operators in their Panchayat Union, in

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his counter affidavit filed in the year 2018, but in the additional counter affidavit filed by the fourth respondent on 24.09.2024, it is admitted that the first petitioner appointed on daily wage employee on 11.08.2004 and the second petitioner appointed as daily wage employee on 22.06.2005. It is also stated in the additional affidavit that the first petitioner and the second petitioner left the employment from 23.02.2024 and 31.01.2024 respectively. Both of them are not working in the fourth respondent office as of now, as stated by the fourth respondent. It is also admitted by the fourth respondent that the petitioners are appointed as daily wage employees who operate computer in the office of the fourth respondent.

14. In view of the same, the factum of employment of these petitioners for a long period of time has not been disputed by the respondents. Similarly, the qualification and eligibility of the petitioners have also not been in dispute as per the material available on record. The main objection of the Government is that, the petitioners were not accommodated against any sanctioned posts. As such, in the absence of any sanctioned posts, their claim for regularisation is without any legal basis and therefore, it cannot be allowed.

15. This Court do not agree with the contentions of the learned Government Advocate appearing for the Government that, as the petitioners are not appointed in



sanctioned post, they are not entitled for the claim of regularisation. The fourth respondent in its additional affidavit admitted that the petitioners were appointed as daily wage employees to operate computer in the office of the fourth respondent. On consideration of the nature of the work as Computer Operator, the petitioners discharged in the office of the fourth respondent is continuous and accordingly, it would conclusively proved that the employment of the petitioners is regular in nature and their claim has to be considered by the Government with fairness, equity and good conscience. As and when the respondents have extracted the work from the petitioners on daily wage employment for several years, as of now nearly 20 years, their claim for regularisation could be considered by the Government.

16. This Court intends to visualize the situation in different angle. In the 20th century, in all offices, all are depending on the computers for day to day work. For that purpose, the respondents have to take steps to appoint employees to operate the computers on permanent basis by sanctioning the required post. Without taking such steps, employees / engaging the qualified persons, as Computer Operator on daily wages by paying some meagre amount to them, as salary and extracting work from them for full time, day in and day out and as and when they sought for regularisation after several years, rejecting the same on the ground that they were not appointed in the sanctioned post is unfair, unreasonable and it is nothing but exploiting the educated youth, which is in violation of Article 21 of the Constitution of India.



17. At this juncture, it is very apt to refer the observations of the Full Bench of this Court in ***M. Sivappa vs. State of Tamil Nadu and Others***, reported in **2024 (2) CTC 1**, as herein under: -

“Employment of persons on Part-time or a Temporary basis to such posts which form part of the Tamil Nadu Basic Service would, in our considered opinion, definitely be an act of exploitation by the State. A welfare State is required to be a model Employer and not an exploiter which indulges in slavery of its own citizens.”

18. The Full Bench also opined that the practice of employing persons on a temporary basis to permanent post is also not a healthy practice.

19. The observations and findings of a Division Bench of this Court in ***M. Shanmugam and Others vs. Government of Tamil Nadu and Others*** reported in **2023 (1) CWC 495**, at paragraphs 20 to 24 are extracted herein under: -

“20. We have come across several cases where such temporary daily wage employees are removed from services and replaced by others depending upon the political situations prevalent at that point of time. Fortunately, for these appellants despite swinging of the political pedulum, they have been continuing to work. Even though their initial service was protected by the order of the Tribunal, atleast from 01.12.2010 till date for



nearly 12 years, there was no protection for their services by means of any order of Court.

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21. The Hon'ble Supreme Court even after the judgment in Umadevi had held that in appropriate cases, it will be open to regularise the services of <https://www.mhc.tn.gov.in/judis> temporary daily rated employees if it is shown that the nature of the work done by them was permanent and they were served for more than 10 years. This Court has also issued several directions in this regard.

22. No doubt, the exploitation of this daily rated employees by the Government should be stopped. But, at the same time, if we refuse to regularize the persons like the appellants, who have put in 20 years of service as daily rated employees, we would only be encouraging exploitation by the state. If the private individual running an industry with 20 employees cannot have temporary employees and the Tamil Nadu Industrial Employees (Conferment Permanent Status) Act would apply to them, we see no reason to allow those persons, who are working under the State or its wings to suffer the temporary employment for a span of 10 years and more.

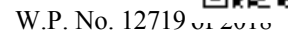
23. The learned Government Advocate would submit that if we direct regularisation of the appellants that would open the flood gates. We are alive to that fact. The Government is guilty of exploitation of at least these four individuals for more than 22 years now. If their service had been <https://www.mhc.tn.gov.in/judis> regularized, they would have been entitled to various benefits



including increments, Dearness Allowance etc. The Government should be a model employer. We find that the Government has been a worse employer in the case of these four appellants and it had been exploiting them for more than 22 years. Whatever is the difference between the daily wages that has been paid to the appellants and what should have been paid to them if they had been permanent employees would be the illegal gain made by the Government at the cost of these appellants. We should not be misunderstood as being sentimental or emotional, we are only sympathetic. Sympathetic to the cause of such persons, who are exploited by the mighty state.

24. We therefore, have no hesitation in setting aside the order of the Writ Court and directing regularization of the appellants with effect from the date on which they completed 10 years in service. We make it clear that the appellants would be entitled to monetary benefits only from the date on which they came before this Court in W.P.No.32112 of 2018 i.e., on 03.12.2018.”

20. In the present case, admittedly the petitioners have completed more than 10 years of service, as Computer Operator on daily wages in the fourth respondent Union. As such, this Court is of the considered view that, in the light of service rendered by the petitioners as Computer Operators in the fourth respondent-Panchayat Union, their claim for regularisation is fully justified and accordingly, this Court holds that the petitioners are entitled for the benefits under G.O.Ms.No.878,



Rural Development Department, dated 15.05.1981 and G.O.Ms.No.22, Personnel and Administrative Reform Department dated 28.02.2006.



21. For the above stated reasons and by following the proposition of law laid down in the above stated judgment of this Court, this Court is of the considered opinion that the petitioners have made out a case for grant of relief.

22. Accordingly, this Writ Petition is allowed with the following direction: -

i) The respondents are directed to regularise the service of the petitioners, as Computer Operators from the date of their original appointment.

ii) In case, such posts are not available and sanctioned, the petitioners shall be considered for regular appointment in allied post on the basis of their qualifications by giving them the benefit of the past services as Computer Operators.

iii) The first respondent is directed to extend the benefit of various Government Orders passed on the subject of regularisation. The first respondent is also directed to pass appropriate orders, within a period of eight weeks from the date of receipt of copy of this order.



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23. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

10.12.2024

Index :Yes/No

Neutral Citation :Yes/No

AT

To

1.The Principal Secretary,
Government of Tamil Nadu,
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai – 600 009.

2.The Director/Commissioner,
Rural Development & Panchayat Raj Department,
Panagal Maaligai, Saidapet, Chennai – 600 015.

3.The District Collector, Dharmapuri District.

4.The Block Development Officer (BP),
Palacode Panchayat Union,
Palacode, Dharmapuri District.



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BATTU DEVANAND, J.

AT

Order made in
W.P. No. 12719 of 2018 and
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10.12.2024