



W.P.No.12208 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.12208 of 2022

W.M.P.Nos.11659, 11660, 18467, 18469 &18470 of 2022

1. C.Rathika
2. P.Selvam
3. K.Arun Joseph
4. G.Barathikannan
5. S.Rajamani
6. K.Paneerselvam
7. J.Kalirajan
8. V.Imrankader
9. S.Livingston Gnanvel Selvin
10. S.Dinesh Babu
11. K.Manikandan
12. Sathyabeeman
13. K.Sivaraman
14. A.Muthukrishnan
15. R.Malathi
16. R.Moorthy
17. R.Siva Stalin
18. Kingsly Peter
19. P.Aruna
20. L.Lawrence
21. R.Dhanasekar
22. K.S.Rajakeerthi
23. M.Gopi
24. B.R.Srikanth
25. K.Kalidoss
26. A.Anbumanikandan

...Petitioners

-Vs-



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WEB COPY

1. The Director General of Training,
The Ministry of Skill Development &
Entrepreneurship,
Employment Exchange Building,
IARI Campus,
New Delhi – 110 012.
2. The Secretary,
Department of Employment & Training,
Secretariat, St. George Fort,
Chennai – 600 009.
3. The Director,
The Employment & Training,
Guindy,
Chennai – 600 032.
4. The Chairman & Managing Director,
The ICT Academy of Tamilnadu,
Elcot Complex, Industrial Estate,
Perungudi, Chennai – 600 096.
5. The Chairman & Managing Director,
The OMCL, Integrated employment office complex,
No.42, Alandur Road,
Thiru.Vika Industrial Estate,
Guindy, Chennai – 600 032.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the first and second respondents to regularize the service of the petitioners with time scale of pay in the respective institutions.



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For Petitioners : Mr.S.Louis
For Respondents
For R1 : Mr.Avinash Krishnan Ravi
Additional Central Government
Standing Counsel
For R2 to R5 : Mr.S.Arumugam
Government Advocate

ORDER

This writ petition has been filed for direction to direct the respondents 1 & 2 to regularize the service of the petitioners in their respective institutions.

2. The case of the petitioners is that in the year 2013, the Hon'ble Chief Minister of Tamil Nadu announced a policy and scheme in the floor of the assembly for the purpose of advancement of all the government Industrial Training Institutes (hereinafter referred to as "ITI") and government aided ITI, based on the All India Scheme by the first respondent in the consultation with NCVT and sanctioned fund to that effect. It has many multiple features and one among them is promoting all the government ITI, by establishing infrastructure laboratory, languages, soft-skill development with the help of software technologies with trained teachers.



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3. Accordingly, the Public Relation Department issued notification dated 29.10.2016, to recruit trained teachers with minimum post graduation as a qualification as BBA, MBA or BE, MBA with adequate computer knowledge along with two years experience preferably with software information, communication skill. The teaching staff was designated as language cum soft-skill instructors to all the government ITI in the State. Around 89 sanctioned post, including the petitioners were recruited on the basis of employment contract by the fourth respondent. They were paid consolidated salary of Rs.20,000/- per month and out of the said amount, a sum of Rs.3,000/- was deducted towards service charges and a sum of Rs.4,000/- was deducted towards P.F and E.S.I. contribution towards the petitioners.

4. In the meantime, from 17.06.2019 onwards, the fifth respondent increased service commission upto 10% for the purpose of inter-coordinating with the second respondent and ITI. Therefore, they submitted representation to absorb all the petitioners by the second respondent under their control and regularize their service. Since the same was not considered, they filed this present writ petition.



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5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On perusal of counter revealed that based on the government order, the said post of the petitioners are purely contractual at consolidated pay. The third respondent had issued orders to ICT Academy of the Tamil Nadu to depute instructors on contract basis through outsourcing method to train the students of Government Industrial Training Institutes on information technology and soft skills using English language lab of the Government Industrial Training Institutes. Accordingly, the fourth respondent issued notification dated 03.04.2015 inviting applications from the candidates for contractual recruitment for the post of Information Technology and Soft Skills Trainer, for a period of 11 months and it was renewable for additional period. Accordingly, the petitioners were deputed by the fourth respondent agency in 84 Government Industrial Training Institutes to handle information technology skill and employability skill class.

7. Therefore, they were appointed as Instructors on contract basis through outsourcing in Government Industrial Training Institutes.



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Now their contract period has been ended and as such no question of regularization of their post. In the Board of Directors meeting of the fifth respondent dated 14.05.2019, a resolution was adopted permitting the corporation to continue with fresh engagement of contractual staff to Government Industrial Training Institutes, Employment offices and other institutes under the control of Commissionerate of Employment and Training in addition to renewal of contractual staff under domestic recruitment serviced by collecting the service charges at the rate of 10% from the monthly salary. Accordingly, the services of the contract instructors were continued.

8. Since the petitioners were sponsored through outsourcing agency on contractual basis, their claim for permanent absorption could not be considered as they were not recruited adhering the communal reservation or norms prescribed by the Government in G.O.Ms.No.44, Labour and Employment Department, dated 11.03.2015, at the time of initial appointment.

9. Further consequent to the 167th meeting of the Board of Directors of the fifth respondent held on 22.12.2021, it was informed by



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the communication dated 20.01.2022 that the fifth respondent shall not engage contract employees directly henceforth and they have stopped the engagement of contractual staff through outsourcing of contractual staff directly to the government departments with effect from 22.12.2021. Therefore, on expiry of period of contract, the petitioners were discharged from their services as per the terms and conditions in the contract.

10. Therefore, they cannot claim appointment as a matter of right or they cannot seek permanent absorption which has to be made in accordance with the service rules in force. That apart, the writ petitions filed by the similarly placed persons were dismissed by this Court in W.P.Nos.18889, 18875 & 18876 of 2017. Hence, the prayer sought for in this writ petition cannot be considered and the writ petition itself devoid of merits and liable to be dismissed.



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WEB COPY 11. Accordingly, the Writ Petition stands dismissed.

Consequently, connected miscellaneous petitions are also closed. There shall be no orders as to costs.

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Internet: Yes
Index : Yes/No
Speaking/Non Speaking order

rts



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