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W.A.No.2606 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No.2606 of 2021;

National Filaria Control Programme Mazdoor,
Head Mazdoor in Tamil Nadu
Represented by the President G.Vinayagam
No.1/4, Rayyanappa Street,
Nandiyalam, (via) Rathinagiri,
Vellore District.

... Appellant

Vs.

- 1.The Director of Health Service,
Office of the Director of Health Service,
Chennai – 600 018.
- 2.Deputy Director of Health Service,
Office of the Director of Health Service,
Vellore.
- 3.The State of Tamil Nadu
Represented by the Commissioner and Secretary
to Government,
Department of Health and Family Welfare,
Chennai – 600 009.

... Respondents



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Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 20.12.2018 made in W.P.No.3193 of 2008 on the file of this Court by allowing the above writ appeal.

For Appellant : Mr.A.V.Arun

For Respondents : Mrs.M.Sneha
Special Counsel

J U D G M E N T

[Judgment was delivered by **S.M.SUBRAMANIAM, J.**]

The writ appeal has been instituted by an Employees Association represented by its President. The members of the petitioner / Association were initially engaged as contingent employees and served under the scheme for eradication of Filariasis disease. Considering the length of their temporary service on contingent basis, the Government took a decision and regularised the services of these temporary employees in sanctioned posts in time scale of pay. It is not in dispute that the services of the contingent employees were regularised in between the year 1987 and 1993.

2. The employees through their Association instituted writ proceedings in the year 2008 and after a lapse of 15 years seeking relief of retrospective



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regularisation from the date of their respective initial appointment as contingent employee including monetary benefits.

3. Mr.Arun, learned counsel for the appellant would submit that the benefit of retrospective regularisation was extended to similarly placed employees by the Government in the year 1997 and during subsequent period for Malaria Scheme employees. Therefore, the said benefit of retrospective regularisation is to be extended to the Filariasis Scheme employees also. The learned Single Judge rejected the claim mainly on the ground that an Association filed a writ petition, which is not entertainable. The Writ Court further held that Association cannot be said to be an aggrieved person. Therefore, the benefit of regularisation cannot be sought for by the Association.

4. We are of the considered opinion that Association cannot maintain a writ petition in respect of individual grievances of the employees in service matters. The Courts have consistently held that service benefits including regularisation, fixation of pay, etc., are the individual grievances, which all are to be redressed by instituting litigation by aggrieved employees.



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5. Beyond the said ground, in the present case, the contingent Filariasis Scheme employees were regularised in sanctioned posts in the time scale of pay from the year 1987 to 1993.

6. The learned Special Counsel appearing on behalf of the respondents would submit that the regularisation was granted in the year 1986 to Filariasis Scheme employees.

7. May that as it be, in any event, the writ petition was instituted after a lapse of more than 15 years. The order of regularisation granted from the date of passing of the Government order remains unchallenged. The employees have accepted the date of regularisation and after a lapse of 15 years they cannot turn around and question the date of regularisation granted by the Government. These contingent employees cannot wait for the decision of the Courts in respect of other employees who have instituted litigation. Such fence sitters are not entitled to seek relief after a lapse of many years.

8. In the present case, regularisation of services granted of the contingent Filariasis Scheme employees itself is a concession extended by the Government. The initial appointment of the these employees under the



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Scheme was admittedly not under the service rules in force. They were engaged not against the sanctioned posts. Under those circumstances, the regularisation granted is a concession and therefore, claiming retrospective regularisation with monetary benefits would not arise at all.

9. In view of the fact that the appellant could not establish any acceptable ground, we confirm the order impugned dated 20.12.2018 in W.P.No.3193 of 2008. Consequently, the Writ Appeal stands dismissed. No costs.

[S.M.S., J.] [C.K., J.]
03.07.2024

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes



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