



W.P.No.15475 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P. No.15475 of 2021 and
W.M.P.No.16409 of 2021

S.Raghu

... Petitioner

Vs.

1. The Commissioner,
Rural Development and Panchayatraj,
Panagal Maligai, 4th & 5th floor,
Abdul Razzak Street, Saidapet,
Chennai - 600 015.

2. The District Collector,
Krishnagiri District.

3. Block Development Officer,
Kelamangalam Block,
Krishnagiri District.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the Respondents to regularize the services of the petitioner in the post of Computer Assistant / Computer Operator in the Office of the Block Development Officer, Kelamangalam Block in line with the recommendation of the third Respondents in



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Na.Ka.No.3147/2012/A1, dated 26.10.2012 in line with the Judgment of this Court in W.P.No.6595 of 2018 dated 28.08.2019 from the date of initial appointment with all service and monetary benefits.

For Petitioner : Ms.Dakshayani Reddy,
Senior Counsel for
Ms.Suneetha

For Respondents

For R1 and R2 : Mr.R.Neethi Perumal,
Government Advocate

For R3 : Mr.L.S.M.Hasan Fizal

ORDER

The petitioner was appointed as a Daily wager to operate Computers at Kelamangalam Panchayat Union on 15.06.2002 and his wages are being paid from the Public funds of the Panchayat. The proposals are said to have been forwarded to the District Collector, Krishnagiri to regularize the similarly placed candidates in the year 2012. Since they were not regularized, they have filed a Writ Petition in W.P.No.6595 of 2018 in which orders have been passed to regularize the service of the petitioners therein. However, the respondents went on appeal by filing a Writ Appeal in W.A.No.3954 of 2019 in which orders have been passed by modifying the order of the Single Judge to the effect that those candidates who have



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completed 10 years of service should be regularized by extending the benefits of the Government Order in G.O.Ms.No.74, Personnel and Administrative Reforms Department, dated 27.06.2013 and in the case of persons who had not completed 10 years of service, preference should be given in the matter of appointment through advertisement.

2. Relying on the said Judgment, the learned counsel for the petitioner pressed that the petitioner would also come within the ambit of those persons whose services are directed to be regularized. Hence, he prays for regularizing the service of the petitioner in accordance with the recommendation made by the 3rd respondent in Na.Ka.No.3147/2012/A1, dated 26.10.2012.

3. Mr.R.Neethi Perumal, learned Government Advocate appearing for the Respondents 1 and 2 submitted that the petitioner was not directly engaged in the 3rd respondent and he was only an out source engaged through the out sourcing agent. Since the petitioner claims regularization through back door entry, he does not come within the exceptions carved



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out by the Hon'ble Supreme Court in Umadevi's case (Secretary, State Karnataka Vs. Umadevi and others reported in (2006) 4 SCC 1) and hence he prayed for dismissal of this petition.

4. On perusal of records, it is seen that in response to the telephonic conversation of the 2nd respondent, the 3rd respondent office has sent the list of persons who had engaged on daily wage basis for more than 10 years. Even though in the Duty Certificate dated 12.10.2012, it has been stated by the 3rd respondent that the petitioner has been working as Computer Operator from 15.06.2002 to 30.07.2008 through an out sourcing agent, the appointment order has been issued by the 3rd respondent on 15.11.2002, which shows that the petitioner was engaged directly by the 3rd respondent and his salary was credited in the account of the petitioner directly and not through any out sourcing agent.

5. It is seen from the records that similarly placed persons have filed a Writ Petition in W.P.No.6595 of 2019 and the respondents have raised the similar contention through the said Writ Proceedings as well. After dealing



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with the submissions of both sides and by making distinction from Umadevi's case, the learned Single Judge has observed after extracting the work from the petitioners, it is unfair to keep them on daily rated basis. The Government had issued various Government Orders for the regularization of the temporary casual employees in various departments. So it is the benevolence shown in the case of Computer Operators as well. By stating so, the learned Single Judge issued direction to the respondents therein to extend the benefits of the various Government Orders, for regularizing the petitioners therein after examining their claims sympathetically.

6. The Respondents had challenged the said order by way of appeal in W.A.No.3954 of 2019. On appeal the Division Bench of this Court had modified the order passed in the Writ Petition to the effect that the benefits of the G.O.Ms.No.74, dated Personnel and Administrative Reforms Department, dated 27.06.2013 can be extended to the similarly placed Computer Operators who have completed 10 years of service. So far as the persons who had not completed 10 years of service, it is suggested to give



preference in the matter of appointment when recruitment was made through advertisement. For the sake of convenience, the relevant paragraph is extracted hereunder:

“12. It is not in dispute that, Writ Petitioners have been irregularly appointed by the Panchayat Unions. Admittedly, there is no violation on the part of the employees and the Government has given a go-by to the decision of the Apex Court in Uma Devi's case (supra) and continued the Writ Petitioners in service. That apart, the Government has passed G.O.Ms.No.161, Rural Development Department, dated 26.06.2000, which was superseded by G.O.Ms. No.74, dated 27.06.2013. Even going by the stand of the Government, employees vide S.Nos.1 to 4 have already completed 10 years of service and the benefits accrued by means of a Government Order cannot be taken away by means of a subsequent Government Order. Hence, we are of the view that, Writ Petitioners vide S.Nos.1 to 4 will have to be regularized.

13. It is not in dispute that, the Writ Petitioner viz. R.Thirumozhi vide S.No.17 is not in service. Insofar as Writ Petitioners vide S.Nos.5 to 19 except S.No.17 are concerned, as they are employed as Computer Operators, and that, manual Typewriters have been dispensed with as on date, we are of the view that, these persons will have to be regularized



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in service, provided there is an Advertisement for the purpose of recruitment and they participate in the selection process. In such an event, these persons will have to be given preference over others in respect of age, caste, etc. for regularization of their service and if they are found fit, their services will have to be regularized on and from the date of their completion of ten years of service.

7. Even though the respondents have stated that the petitioner was never engaged by the 3rd respondent directly, the records would show that his engagement was direct and he was in service for more than 10 years. Only in view of that, in the list of candidates sent in response to the telephonic message of the District Collector, the 3rd respondent name has also been included.

8. Since the petitioner's case squarely falls under the earlier Judgements of this Court in W.A.No.3954 of 2019 and he has completed 10 years of service, the respondents are directed to consider the case of the petitioner sympathetically for the purpose of his regularization and pass favourable orders as expeditiously as possible.



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9. With the above direction, this Writ petitioner is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

To:

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R.N.MANJULA ,J.

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