



W.P.No.20190 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2024

CORAM:

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

W.P.No.20190 of 2022

- 1.F.Maria
- 2.G.Sharmila
- 3.R.Punitha
- 4.D.P.Sathish Kumar
- 5.L.Gowthaman
- 6.R.Bhuvaneswari
- 7.S.Mydeen sha
- 8.D.Nancy
- 9.G.K.Nageswari
- 10.B.Malathy

... Petitioners

Vs.

- 1.The Chairman,
Tamilnadu Urban Habitat Development Board,
No.5, Kamarajar Salai,
Chepauk,
Chennai 600 005
- 2.The Managing Director,
Tamilnadu Urban Habitat Development Board,
No.5, Kamarajar Salai, near Vivekananda House,
Ayothiya Nagar, Triplicane,
Chennai,
Tamilnadu 600 005
- 3.The Chief Engineer,
Tamilnadu Urban Habitat Development Board,
No.5, Kamarajar Salai,
Chepauk,



W.P.No.20190 of 2022

Chennai-5

- 4.The Secretary,
Tamilnadu Urban Habitat Development Board,
No.5, Kamarajar Salai, near Vivekananda House,
Ayothiya Nagar, Triplicane,
Chennai,
Tamilnadu 600 005
- 5.The Superintending Engineer,
Tsunami Planning Co-ordination and Monitoring Cell,
Tamilnadu Slum Clearance Board,
Chennai 600 005
- 6.The Principal Secretary to Government,
Housing and Urban Development Department,
Government of Tamilnadu,
Chennai 600 009

(6th respondent impleaded vide order dated 03.08.2023
made in WMP.No.25074 of 2023 in
WP.No.20190 of 2022)

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India
praying to issue a writ of mandamus directing the respondents to
regularize the services of the petitioners by absorbing them in the
permanent post in the light of the long years of services rendered by them
and in the light of the judgment of this Court in WP.Nos.14782 and
19961 of 2020 dated 03.02.2021 and WP.No.7893 of 2021 dated
14.02.2022 with all attendant benefits.

For Petitioners : Dr.D.Sreenivasan



W.P.No.20190 of 2022

For Respondents

For R1 to 4 : Mr.S.Karthikeyan

For R6 : Mr.V.Veluchamy,
Additional Government Pleader

ORDER

This writ petition has been filed for direction to the respondents to regularise the services of the petitioners by absorbing them in permanent post in the light of the long years of service rendered by them.

2. The petitioners were selected and appointed as Data Entry Operator / Junior Assistant / Office Assistant respectively in the Tsunami Planning Co-ordination and Monetary Cell. They were appointed on contract basis for initial period of one year from October 2007 to September 2008. Since their appointment was temporary and on contract basis, after period of one year, their services were extended for subsequent years depending upon work load. Thereafter, they were appointed by the Electronics Corporation of Tamilnadu Limited(ELCOT)



W.P.No.20190 of 2022

on contract basis for the year 2018 as Data Entry Operator, Junior Assistant and Office Assistant respectively in the first respondent Department.

2.1 The learned counsel for the petitioners would submit that the petitioners had been working continuously as temporary employees for more than 10 years. There are numerous Government Orders to regularise the temporary staff working on contract basis for 10 years and more, in order to absorb on permanent basis by considering their eligibility criteria, age, qualification, etc. He also relied upon the Government Order in GO.Ms.No.105 dated 26.02.2016 thereby ordered to absorb the Tsunami temporary employees. In pursuant to the said order, the Director of Rural Development and Panchayat Raj had sent recommendation by its proceedings dated 16.03.2016 to the first respondent seeking information about the temporary employees who are eligible to be absorbed. Thereafter, no action has been taken to absorb the petitioners into regular service. Therefore, the petitioners submitted representation on 16.06.2021. He also submitted that in the year 2019,



W.P.No.20190 of 2022

the Public Works Department issued order in GO.Ms.No.233 dated 06.12.2019 according sanction for payment of wages for NMR's / daily rated casual labours and temporary workers equivalent to the basic pay at the minimum of pay scale applicable to the post of Sweeper / Scavenger applicable from time to time. However, the petitioners were not given any allowance or equivalent pay as mentioned in the Government order.

2.2 In support of his contention, the learned counsel for the petitioners relied upon the judgment of of the Hon'ble Supreme Court of India in the case of ***Nihal Singh and Others Vs. State of Punjab and Others*** reported in ***(2013) 14 SCC 65***, wherein it is held that there is no justification for the State to take a defence that after permitting the utilisation of the services of large number of people like the appellants for decades, to say that there are no sanctioned posts to absorb the appellants. Sanctioned posts do not fall from heaven. State has to create them by a conscious decision on the basis of some rational assessment of the need.



W.P.No.20190 of 2022

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3. On perusal of the counter filed by the respondents and on submissions made by the learned counsel appearing on either side, revealed that the petitioners were not recruited as employees of the Tamilnadu Urban Habitat Development Board through employment exchange or Tamilnadu Public Service Commission. Their engagement is purely through outsourcing agency i.e. ELCOT. That apart, they were not engaged continuously. Whenever needed, they were engaged for particular work in order to expedite the official works in the Board / Divisions / Estate Offices. Date Entry Operator / Junior Assistant / Office Assistant were utilised through outsourcing agency i.e. ELCOT with fixed pay, that too upto 31.12.2021. Their appointments were purely on contractual basis and on consolidated monthly salary. As and when the permanent employees in the category of Typist / Junior Assistant had the benefit of promotion to higher post, the sanctioned cadre post of the Board fell vacant. Further, as per the administrative procedure, the sanctioned strength of posts, to the Statutory Board, which were kept unfilled upto the year 2018 was lapsed, which warranted the second respondent to seek orders for revival of the posts from the Government



W.P.No.20190 of 2022

towards which the second respondent had submitted proposal on 03.03.2022. Rules governing the service conditions of Tamilnadu Urban Habitat Development Board Non Technical Subordinate Service Rules contemplates the method of recruitment for the post of Typist by direct recruitment or for special reasons for appointment of Typist in the Tamilnadu Ministerial Service or in the service of a local or an autonomous body on foreign service terms or by transfer or promotion from other categories of persons possessing requisite qualification. Therefore, the services of the petitioners cannot be regularised and the writ petition is devoid of merits and liable to be dismissed.

4. Accordingly, this writ petition is dismissed. There shall be no order as to costs.

15.03.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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W.P.No.20190 of 2022

G.K.ILANTHIRAIYAN, J.

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To

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W.P.No.20190 of 2022

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