



WA No. 2231 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-01-2024

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No. 2231 of 2023
and
C.M.P. No. 19363 of 2023

1. R. Shanmugam
2. R. Selvarangam
3. B. Murugan
4. S. Jeyakumar
5. I. Sasikumar
6. V. Manikandan
7. V. Kannan
8. S. Prabakar
9. I. Kumar
10. S. Seetharaman
11. D. Murugan
12. S. Kodandaraman
13. A. Rajaram
14. S. Sachidanandam
15. M. Elumalai
16. B. Narayanasamy
17. R. Ramalingam
18. R. Prabakaran
19. A.P. Murugan
20. M. Tiruochalinhame
21. S. Madan
22. K. Meena
23. Mr. V. Soupramaniane
24. D. Vijayalakshmi
25. G. Selvaraj



WA No. 2231 / 2023

26. V. Sundramoorthi
27. B. Palanivel
28. R. Maried Roland
29. P. Nagarajan
30. K. Meganathan
31. T. Karthigeyan
32. S. Malarmozhi
33. R. Sankardoss
34. N. Sengadirservan
35. S. Sivaraj
36. T. Kadiresan
37. Pushpanathan
38. R. Venkatesan
39. P. Raja
40. J. Kichetane
41. D. Karunakaran
42. M. Gunasekaran
43. S. Kalidoss
44. S. Arjunan
45. K. Thirumurugan
46. D. Perambalam
47. S. Gunasekaran
48. B. Nagarajan
49. V. Devesenpathi
50. D. Katchammalle
51. S. Sabarinathan
52. A. Elumalai
53. P. Thamizharasan

.. Appellants

Versus

1. Union Territory of Puducherry
Rep. by the Chief Secretary,
Central Secretariat, Puducherry.
2. The Managing Director,
Puducherry Distilleries Limited,
Ariyapalayam
Villianur – 605 110.



WA No. 2231 / 2023

3. Director,
Employment Exchange,
Puducherry

4. S. Ravikumar

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 12.07.2023 passed by the learned Judge in W.P. No. 40172 of 2015.

For Appellants : Mr. R. Singaravelan, Senior Counsel
for Mr. Prakash Adiapadam
for Appellants 5, 14, 30, 32, 35, 37 to 43,
46, 48, 49, 52 & 53.

Mr. S. Thankasivan
for Appellants 12, 16, 29, 36, 47 & 51

Mr. V. Prakash, Senior Counsel
for Mr. S. Manikandan
for Appellants 1, 2, 8, 9, 17, 18, 21, 25, 31,
34, 44, 45 & 50.

Mr. NGR. Prasad
for Mr. M. Kannan
for Appellants 3, 4, 6, 7, 10, 11, 13, 15, 19,
20, 22, 23, 24, 26, 27 & 28

Mr. V. Balamurugane for 33rd Appellant

For Respondents : Mr. Sreedhar,
Additional Government Pleader (Puducherry)
for R1 & 2

Mr. K. Sasindran for R4



WA No. 2231 / 2023

WEB COPY

JUDGMENT

[Judgment of the Court was made by R. MAHADEVAN, J]

The appellants have come forward with this writ appeal assailing the order dated 12.07.2023 passed by the learned Judge in W.P. No. 40172 of 2015.

2.The fourth respondent herein has preferred the aforesaid Writ Petition bearing No. 40172 of 2015 praying to issue a Writ of Certiorarified Mandamus to call for the records of the selection process of public appointment notice issued by the second respondent in Dinamani Tamil Newspaper dated 28.10.2015 at Villupuram District and consequential appointment dated 07.12.2015 and quash the same as illegal, unjust and directing the second respondent to fill up the vacancies as per G.O. Ms. No.22, DPAR (PW) dated 27.02.2009. The appellants herein were the respondents 4 to 56 in the said writ petition.

3.It was the case of the fourth respondent before the writ court that the second respondent appointed the candidates by adopting irregular methods without following due process of law. According to him, initially, the workers were appointed by the second respondent on daily wages casual labourers and



WA No. 2231 / 2023

thereafter, they were inducted into regular service without any selection process, thereby depriving the candidates, who have registered their names in the employment exchange for public employment. The fourth respondent further stated that the Union Territory of Puducherry passed G.O.Ms.No.22/DPAR (PW) Department, dated 27.02.2009, thereby regularising the employees working in the Government departments on part time and full time. Contrary to the said G.O. and without following any selection method and without reference to the employment exchange, the second respondent appointed the appellants herein as daily rated casual labourers, in the years 2009 and 2010. While so, the fourth respondent and others, preferred WP. No. 2912 of 2015 for direction to the second respondent to consider their representations dated 21.01.2015 to fill up the vacancies and appoint them in the suitable posts in the second respondent Distilleries Unit based on their suitability and eligibility. Pending the said writ petition, the second respondent had issued a public appointment notice in Villupuram District in Dinamani Tamil Daily Newspaper dated 28.10.2015, without issuing the same at Puducherry Territory, and appointed the appellants as Multipurpose workers on *ad hoc* basis, by giving age relaxation, etc. According to the fourth respondent, the appointment of the appellants to the 53



WA No. 2231 / 2023

posts of multi purpose workers in Puducherry Distilleries Limited, is against

G.O.Ms.No.22 DPAR (PW) Dated 27.02.2009.

4.After due contest, the learned Judge allowed the writ petition filed by the fourth respondent, by the order impugned herein. The relevant passage of the same is extracted below for ready reference:

“20.Thus, it is clear that the public sector undertakings had not revised the recruitment rules on the lines of sixth pay commission. It had made recruitment, up-gradation, modification of posts and scale of pay without following due procedures by amending recruitment rules with prior approval of Government of Puducherry. The directives of Government of Puducherry were not followed in respect of engagement and regularization of CLRs who were not having prescribed age and educational qualification as per the recruitment rules. Therefore, the entire selection process of public appointment notice issued by the second respondent in “Dinamani” daily newspaper in Villupuram edition and its consequential appointment of the respondents 4 to 56 dated 07.12.2015 are declared as illegal.

21.In view of the above, the selection process of public appointment notice issued by the second respondent in Dinamani Tamil Newspaper dated 28.10.2015 at Villupuram District and the consequential appointments of respondents 4 to 56 dated 07.12.2015 are hereby declared as illegal.

22.Accordingly, this writ petition stands allowed....

23.The first respondent is directed to take appropriate action as against the person who issued the illegal notification dated 28.10.2015 and the person who recruited the respondents 4 to 56 in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order.”

Aggrieved by the aforesaid order, the respondents 4 to 56 in the writ petition, have preferred this writ appeal.



WA No. 2231 / 2023

5.The consolidated submissions of all the learned senior counsel / learned counsel for the appellants are as under:

(i)The second respondent Puducherry Distilleries Limited is a Government Undertaking Company. The appellants were appointed as casual labourers (CLRs) during the years 2009 and 2010. In the 246th Board Meeting held on 17.08.2015, the second respondent created 58 regular vacancies to the post of Multipurpose Workers which classified as Group C in the scale of pay of Rs.5200-20200 with Grade Pay of Rs.1800/- (PB-1). Accordingly, on 28.10.2015, notification was issued in a Tamil Daily Newspaper “Dinamani” Villupuram Edition for inviting applications from eligible candidates for filling up of 53 vacancies to the post of Multipurpose Workers by way of direct recruitment. Since the appellants were fully qualified and having 5 years of service in the second respondent company as CLRs, they duly applied for the said post. The selection committee after following due procedure, prepared the merit list of candidates and selected 53 candidates / appellants herein, and recommended their names for appointment to the post in question. Based on the same, the second respondent issued appointment orders dated 07.12.2015 to the appellants herein.

(ii)In the year 2017, 27 casual labourers (27 appellants herein) raised an Industrial Dispute in ID(I) No. 2 of 2017 before the Industrial Tribunal-cum-



WA No. 2231 / 2023

Labour Court, Puducherry, against the second respondent for regularisation of their services rendered as casual labourers. By award dated 28.09.2017, the Industrial Tribunal allowed the said ID, thereby directing the second respondent to regularise the services of those casual labourers and pay wages to them on par with permanent workers from the date of raising the ID. The said fact was not brought to the notice of the learned Judge by the respondent authorities.

(iii) The learned Judge allowed the writ petition filed by the fourth respondent mainly on the ground that the advertisement (Recruitment notification) was issued only in Dinamani Tamil Newspaper on 28.10.2015 at Villupuram Edition; though the Villupuram Edition was circulated at Puducherry, it was not circulated in other 3 regions viz., Karaikal, Mahe and Yanam and therefore, the people at those three regions did not aware about the advertisement and they were effectively prevented from applying the post in question. According to the appellants, the advertisement was circulated in Puducherry as well as some other districts in neighbouring State of Tamil Nadu and the fourth respondent being the resident of Puducherry, did not even apply for the post in question and hence, he has no *locus* to challenge the selection process by taking advantage of non-circulation of newspaper in other



WA No. 2231 / 2023

3 regions viz., Karaikal, Mahe and Yanam; and that, nobody from the said regions had filed any petition questioning the selection process.

(iv)The appellants have rendered 14 years of continuous and uninterrupted / unblemished service in the second respondent' and put their effective and efficient service for the development of the company. In order to recognise the same, an attempt was made to regularise their services. In support of the same, reference was made to the decision of the Hon'ble Supreme Court in *Secretary, State of Karnataka and others v. Umadevi and others [2006 (4) SCC 1]*, wherein, it was held that “if an incumbent had put in more than 10 years or more on duly sanctioned post without benefit or protection of the interim order, such incumbent can be considered for regularisation of service”. Without properly appreciating the facts and circumstances of the case, the learned Judge, by the order impugned herein, erred in allowing the writ petition, *inter alia* setting aside the appointment orders issued to the appellants herein.

(v)In view of the order passed by the learned Judge, the second respondent is taking steps for disengaging the appellants from service. According to the appellants, they are depending on the meagre salary received from the second respondent and due to the act of the second respondent, the appellants should not be made to suffer, that too, for no fault on their part.



WA No. 2231 / 2023

With these submissions, the learned senior counsel / learned counsel sought to allow this writ appeal by setting aside the order passed by the learned Judge.

6. On the other hand, the learned Government counsel appearing for the respondent authorities submitted that after analysing the facts and circumstances of the case, the learned Judge passed the order impugned herein, which does not call for any interference by this court. It is also submitted that as per the order of the learned Judge, the appellants were terminated from the service of the second respondent.

7. Heard both sides and perused the materials available on record.

8. The challenge made in this writ appeal is to the order of the learned Judge, setting aside the selection process pursuant to the public appointment notice issued by the second respondent dated 28.10.2015 and the consequential appointments of the appellants herein, dated 07.12.2015, as illegal.



WA No. 2231 / 2023

9. It is the specific contention raised on the side of the appellants that the appellants were inducted as Causal Labourers in the years 2009 and 2010. Some of them (27 appellants) earlier, raised Industrial Dispute and obtained a favourable orders in respect of regularisation of their services in the second respondent company, which was virtually set aside by the learned Judge, cannot be countenanced. The order passed by the learned Judge has got nothing to do with the regularisation of services of the appellants on the basis of the number of years of service rendered by them as casual workers.

10. The writ petition filed by the fourth respondent herein, revolves around the illegal and irregular manner, in which the appellants came to be appointed, pursuant to the defective notification dated 28.10.2015, whereby, genuine and eligible candidates from the open market were even deprived from participating in the selection process for the post of Multi purpose workers. On the other hand, the notification dated 28.10.2015 is tailor-made that it was intended to accommodate the appellants, who were already working as Casual Labourers in the second respondent, by throwing all the norms and procedure in the wind. It is in those circumstances, the learned Judge, on appreciation of the records, has rendered a finding that the notification inviting applications for the 53 posts of multipurpose workers, was bereft of any



WA No. 2231 / 2023

particulars. Further, it was held by the learned Judge that the notification was not in the prescribed format, besides the name of the company, location, post box number etc., were not indicated therein, purportedly to avoid the candidates from open market to apply for the post in question. The learned Judge also rendered a finding that for the 53 posts called for, 53 applications have been received from the Casual Labourers/appellants, who were already working in the second respondent - Puducherry Distilleries Limited.

11. On a perusal of records, we find that the notification dated 28.10.2015 has been designed purportedly to accommodate the existing Casual Labourers/appellants working in the Puducherry Distilleries Limited and to desist the candidates from open market from participating in the selection process. The notification was not circulated widely, but it was circulated within Villupuram District, without being circulated at Puducherry. This stands testimony to the fact that in the selection committee meeting held on 26.11.2015, it was recorded that no application was received in response to the advertisement issued for filling up the 53 posts of Multipurpose workers. The selection process was curtailed and restricted in such a manner that no open market candidate could participate and it was tailor-made to select and appoint the appellants alone. Except the appellants, none had taken part in the on-line



WA No. 2231 / 2023

practical test conducted in a scheduled time on 26.11.2015 and based on the marks obtained thereof, a list was prepared and the appellants were selected to the post of Multipurpose workers. Therefore, the conclusion reached by the learned Judge that the selection process has not been conducted in a transparent manner, is wholly justifiable; and the entire selection process was tailor-made to accommodate the 53 Casual Labourers already working and thereby restrain the candidates like the fourth respondent / writ petitioner from the open market even to participate. When none of the procedures established under law have been followed in appointing the existing 53 Casual Labourers, their appointment cannot be given a seal of approval by this Court. Thus, the selection process lacks transparency and is marred by illegalities and the order of the learned Judge setting aside the same, cannot be interfered with by this court.

12. At this juncture, it is represented on the side of the appellants that some of the casual labourers who were appointed at later point of time, are in continuous employment and there are requirements to engage some more casual labourers in the second respondent company. Hence, taking note of the length of services rendered by them, the appellants may be granted liberty to approach the respondent authorities by way of representation(s) seeking to



WA No. 2231 / 2023

employ them as casual labourers. On such representation(s) being made, the respondent authorities may be directed to consider the same, sympathetically.

13. There is no serious objection on the side of the respondent authorities, for granting such relief to the appellants.

14. In view of the above, this writ appeal stands dismissed. However, liberty is granted to the appellants to make their representation(s) and upon receipt of the same, the respondent authorities shall consider the same on merits and pass orders, as expeditiously as possible, preferably within a period of six weeks thereafter. No costs. Consequently, the connected Miscellaneous Petition is closed.

(R.M.D.,J) (M.S.Q.,J)
29.01.2024

ay/rsh

Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation: Yes / No

To

1. The the Chief Secretary,
Union Territory of Puducherry
Central Secretariat, Puducherry.
2. The Managing Director,
Puducherry Distilleries Limited,
Ariyapalayam, Villianur – 605 110.



WA No. 2231 / 2023

3. Director,
Employment Exchange,
Puducherry



WEB COPY



WA No. 2231 / 2023

R. MAHADEVAN, J
and
MOHAMMED SHAFFIQ, J

ay/rsh

Writ Appeal No. 2231 of 2023

Dated: 29.01.2024