



W.A.Nos.1930, 1952 & 1954 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.A.Nos.1930, 1952 & 1954 of 2024

The State Of Tamil Nadu
Rep. by its Principal Secretary to Government
Home (Courts-IV) Department
Secretariat, Chennai-600009. .. Appellant
in all W.As

Vs.

1. E.Ganesan
2. The State of Tamil Nadu
Rep. By its Secretary to Government
Personnel and Administrative Reforms Department
Secretariat, Chennai – 600 009.
3. The Government Pleader
Office of the Government Pleader
High Court of Madras
Chennai – 600 104. .. Respondents in
W.A.No.1930 of 2024

1. V.Jayanthi
2. The State of Tamil Nadu
Rep. By its Secretary to Government
Personnel and Administrative Reforms Department
Secretariat, Chennai – 600 009.
3. The Government Pleader
Office of the Government Pleader
High Court of Madras
Chennai – 600 104. .. Respondents in
W.A.No.1952 of 2024



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1. R.Suguna

2. The State of Tamil Nadu
Rep. By its Secretary to Government
Personnel and Administrative Reforms Department
Secretariat, Chennai – 600 009.

3. The Government Pleader
Office of the Government Pleader
High Court of Madras
Chennai – 600 104. .. Respondents in
W.A.No.1954 of 2024

Prayer in W.A.No.1930 of 2024: Appeal filed under Clause 15 of the
Letters Patent Act, against the order dated 30.08.2023 made in
W.P.No.33568 of 2012;

Prayer in W.A.No.1952 of 2024: Appeal filed under Clause 15 of the
Letters Patent Act, against the order dated 30.08.2023 made in
W.P.No.33569 of 2012; and

Prayer in W.A.No.1954 of 2024: Appeal filed under Clause 15 of the
Letters Patent Act, against the order dated 30.08.2023 made in
W.P.No.33567 of 2012.

For the Appellant
in all W.As : Mr.S.Yashwanth
Additional Government Pleader

For the Respondents
in all W.As : Mr.G.Sankaran
Senior Advocate
for Mr.S.Nedunchezhiyan for R1

Mr.M.Alagu Goutham
Government Advocate
for R2 and R3



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COMMON JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

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Since these intra-Court appeals have been directed against the common order passed by the Writ Court dated 30.08.2023 made in W.P.Nos.33567 to 33569 of 2012, all these writ appeals are taken up together and are disposed of by this common order.

2.1. The private respondents in these appeals, who were the writ petitioners in the respective writ petitions before the Writ Court, have been appointed as Junior Assistant-cum-Typist, Junior Assistant and Typist respectively as per the respective proceedings of the third respondent dated 01.12.2003, 01.02.2005 and 07.11.2005.

2.2. In fact, the State Government has created a Department called "*The Department of Government Litigation for the Administration of the Office of the Advocate General, Government Pleader and Public Prosecutor of the High Court of Madras*" by issuance of the Government Order in G.O.Ms.No.1466, Home (Courts – IV) Department, dated 06.10.1997. The Government also has sanctioned posts to these Offices as per the details mentioned in the Annexure of the said Government Order.



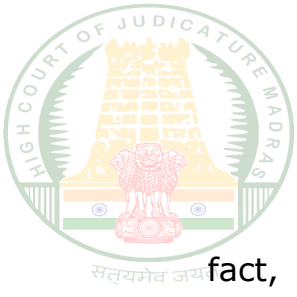
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2.3. Since No Service Rules / Adhoc Rules have been framed for these purposes, the Tamil Nadu State and Subordinate Service Rules were taken into account. Accordingly, the third respondent was given the authority to make appointments to the posts of Junior Assistant-cum-Typist, Junior Assistant and Typist. Therefore, these three writ petitioners/private respondents, having been selected, were appointed in the respective dates as mentioned above.

2.4. At the time of their appointment, it was on consolidated pay for a sum of Rs.3,000/- per month, based on which, such appointments though had been made, they have been continuing all along and at one point of time, when they made a request to make regularization and to enhance their pay, the Government, having considered their requests for enhancement of pay, issued G.O.Ms.No.1189, Home (Courts-IV) Department, dated 04.11.2008, thereby enhancing their pay of Rs.3,000/- per month to Rs.5,000/- per month. Thereafter also, in the said consolidated pay only they have been continuously working.

2.5. Requests were made to regularize their services by bringing them under regular time scale of pay. Those requests, in



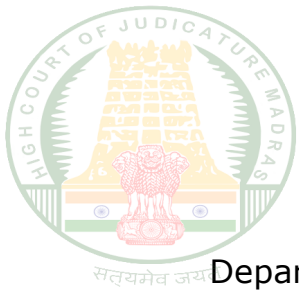
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fact, have been forwarded to the Government by way of recommendation by the third respondent, who was the Appointing Authority, through his communication dated 08.09.2010 and based on which, since no action has been taken, they approached this Court by filing writ petition in W.P.No.14553 of 2011, where, directions were given to consider their requests by the order of this Court dated 01.07.2011.

2.6. Based on these proceedings, that is the Court order as well as the recommendatory communication dated 08.09.2010 made by the third respondent/Appointing Authority, the Government considered the case of these three incumbents, who are the writ petitioners, and rejected their plea by issuance of G.O.Ms.(3D) No.47, Home (Courts-IV) Department dated 19.09.2011, which was under challenge in these writ petitions.

3. The learned Single Judge, who heard these matters, has given a detailed judgment, considering all these aspects, as well as the similar Government Orders issued at various point of time, regularizing the services of these kind of adhoc appointees on consolidated pay and accordingly, the learned Single Judge has given directions by allowing these writ petitions, to the appellant



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Department to regularize their services by bringing them under regular time scale of pay. Aggrieved over the same, these appeals have been directed.

4. We have gone through the order passed by the appellant Department in G.O.Ms.(3D) No.47 dated 19.09.2011. In the said Government Order, the following reasons have been stated by the Government for rejecting the plea of the writ petitioners:

"3. The Government have examined the proposal of the Government Pleader, High Court, Madras dated 10.05.2010 and 08.09.2010 as directed by the Hon'ble High Court of Madras it is order dated:1.7.2011 in Writ Petition No.14553 of 2011. Orders issued in G.O.Ms.No.20, P&AR (SAT) Department, dated: 29.03.2010 is not similar to this case, since the orders were issued as per the directions of High Court, Madras based on the facts of that case. The individuals Tmt. R.Suguna, Typist, Thiru R.Ganesan, Junior Assistant, Tmt. V. Jayanthi, Typist, were appointed on consolidated pay and made by outsourcing and not through Employment Exchange and the orders issued in the said Government Order cannot be applicable to the staff who were appointed on consolidated pay and the appointments were made by outsourcing. Hence, the Government have decided to reject the proposal of the Government Pleader, High Court, Madras, for regularisation of services of the above three individuals.

4. Accordingly, the proposal of the Government Pleader, High Court, Chennai, dated: 10.5.2010 and 8.9.2010 to regularize the services of Tmt.R.Suguna, Typist, Thiru E.Ganesan, Junior



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Assistant and Tmt. V. Jayanthi, Typist be rejected."

5. We have also gone through the Government Order made in G.O.(2D).No.20, Personnel and Administrative Reforms (SAT) Department, dated 29.03.2010, where, similarly placed persons who had been initially appointed on temporary basis in the erstwhile Tamil Nadu Administrative Tribunal as Ministerial Staff, where even though earlier regularization had subsequently been ousted or their appointments have been canceled or their regularization has been canceled, as against which, when they approached the Court of Law, pursuant to the orders passed by this Court, the Government came forward to pass the said order, whereby, the Government has stated that in order to implement the order passed by the High Court of Madras in W.P.Nos.17489 and 17490 of 2007, filed by the said individuals to regularize their services with all consequential benefits, and in exercise of the power conferred under Rule 48 of the General Rules for Tamil Nadu State and Subordinate Services, the Governor relaxed the Rules indicated in Column 4 of the Table in favour of the individuals indicated and the Government also directed the services of the individuals shall be regularized with effect from the dates noted against their names.



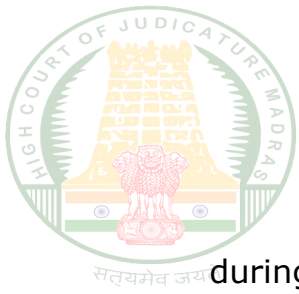
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6. Therefore, insofar as the import of G.O.(2D).No.20 is concerned, similarly placed persons have been given such a benefit of regularization by bringing them under regular time scale of pay and they have been given such regularization from the initial appointment. When that being so, there is absolutely no reason on the part of the State to take a different view that G.O.(2D).No.20 cannot be compared in the case of the present writ petitioners.

7. In this context, it is to be noted that the Office of the Advocate General is a premier Law Office of the State. Like that, the Offices of the Public Prosecutor as well as the State Government Pleader also are very important legal Offices of the State Government, insofar as the litigation Department of the State Government is concerned.

8. There are lot of legal works being undertaken in these Offices. Therefore, everyday, voluminous works like typing and other related Ministerial works are to be undertaken in these Offices. Therefore, feeling the need of having adequate number of these Ministerial Staff like Junior Assistants, Typists, etc., such request had been made by the then Government Pleader sometime in the year 2002, which was accepted by the Government. Even



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during the ban period between 2001-06, the State Government came forward to accept the request of the then Government Pleader and permitted the Government Pleader to appoint persons in the sanctioned posts, however, it was only on consolidated pay.

9. Though initially such appointments have been made only on consolidated pay as a stop-gap arrangement, subsequently, Rules must have been framed by the State Government, even by way of adhoc Rules, based on which, the sanctioned posts must have been filled up by the State Government or the Authority concerned either on their own or through the Tamil Nadu Public Service Commission.

10. However, no such steps have been taken by the State Government and for all these years, the Office of the Government Pleader is being run with the help of these temporary employees and according to the statistics which have already been projected by the Writ Court in the impugned order that 35% of the sanctioned staff alone are working in the Office of the Government Pleader. Therefore, such voluminous work since is to be attended by these people, that is 35% of the staff working in the Office of the Government Pleader, how much work burden each of the employees would have undertaken for all these years could easily be



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ascertained.
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11. More over, these writ petitioners have been continuously working for more than twenty years from the date of their appointment and as of now, though one among the three writ petitions has already superannuated and retired from service, the remaining people also are having very little service to spend before they reach superannuation. When that being the position, to these incumbents, who have been appointed two decades back and from whom heavy work has been extracted continuously for all these years at the Office of the Government Pleader, the Government cannot show their back at the threshold of their services before their retirement by denying their right to be regularized.

12. As rightly observed by the learned Single Judge through the impugned order, the Government, being the model employer, cannot be allowed to justify its explanation. More over, when we looked at the reasoning that has been stated in the impugned order before the Writ Court, rejecting the plea of these writ petitions, at paragraph 3, we do not find any plausible reason to accept the said reasoning given by the Government. More over, insofar as the present private respondents/writ petitioners are concerned, since



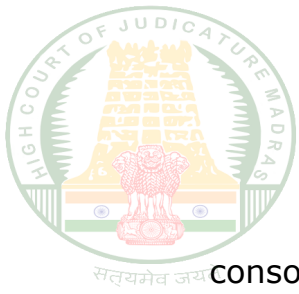
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G.O.(2D).No.20 dated 29.03.2010, issued in respect of similar circumstances of these kind of employees who had been appointed in the erstwhile Tamil Nadu Administrative Tribunal, they are no way inferior and no way they have been placed in any disadvantageous position compared with the employees, whose services have been regularized in the said Government Order dated 29.03.2010.

13. Therefore, such a reason, being the only reason given by the Government in the impugned order before the Writ Court, also would not be sustained in the legal scrutiny. Therefore, for all these reasons, we do not find any infirmity in the order that has been passed by the Writ Court, which is impugned herein. More over, the appointment of these writ petitioners since has been made only in the sanctioned posts, pursuant to the Government Order in (GO.D.)No.1020, Home (CTS, IV) Department dated 09.02.2002, it cannot be merely stated that it is back-door employment and not through Employment Exchange.

14. If these kinds of reasons are mentioned, on what basis the Government has sanctioned these posts and on what basis



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consolidated pay of sum of Rs.3,000/- was sanctioned earlier and subsequently was enhanced to Rs.5,000/- by the Government, if all the appointments initially made are illegal appointments?. Therefore, at no stretch of imagination it could be stated that these appointments are illegal appointments.

15. When that being so, the reason cited by the Government, in not accepting the request made by the Government Pleader, is absolutely unlawful and unjustifiable. Hence, there is every justification on the part of the Writ Court in setting aside the impugned order and allowing these writ petitions through the impugned order.

16. Resultantly, these writ appeals fail and therefore, they deserve to be dismissed, accordingly, these writ appeals stand dismissed. The directions given by the learned Single Judge through the impugned order shall be implemented by the appellants within a period of two months from the date of receipt of a copy of this order.

17. However, there is no order as to costs. Consequently, C.M.P.Nos.13862, 14031 & 14040 of 2024 are closed.



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(R.S.K., J.) (C.S.N, J)
22.01.2025

Neutral Citation:Yes/No

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To:

1. The Secretary to Government
The State of Tamil Nadu
Personnel and Administrative Reforms Department
Secretariat, Chennai – 600 009.
2. The Government Pleader
Office of the Government Pleader
High Court of Madras
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R. SURESH KUMAR, J.
AND
C. SARAIVANAN, J.
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