



WP.No.22148 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 27.10.2025

Pronounced on : 04.11.2025

CORAM

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

WP.No.22148 of 2023 and
WMP.No.5370 of 2024

1.R.Sivamurugan
2.V.Dhanuskodi
3.A.Dhanasekara Packia Jeyaraj
4.S.Balamurugan
5.P.Jeganathamoorthy
6.D.David Dhanaraj
7.S.Epanesar Anpan
8.T.John Udaya Suriyan
9.P.Devid
10.S.Keeshing Raja
11.A.Lakshmanan
12.S.Packiaraj

... Petitioners

Vs.

1.The State of Tamil Nadu,
rep.by the Additional Chief Secretary to Government,
Municipal Administration and Water Supply (WS3) Department,
Fort St.George, Chennai-9
2.The Managing Director,
TWAD Board,
No.31, Kamarajar Salai,



Chepauk, Chennai-5

3.The Executive Engineer, (TWAD Board),
Tamil Nadu Water Supply and Drainage Board,
RWS Division,
No.120, Ex-Servicemen Welfare Building,
Collectorate Campus,
Ramanathapuram

4.The Inspector of Police,
Sivagangai, Sivagangai District

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the entire records with regard to the impugned Government Order in G.O.(D) No.46 dt.10.02.2021 passed by the 1st respondent herein and consequential order in Proc.No.645 F.WCE.2021/EC/2021 dt 26.02.2021 passed by 3rd respondent and quash and strike down the same and for a direction directing the 1 to 3 Respondents to regularize the Petitioners as permanent government servants from the date of their respective date of joining or from the date of order of the 4th respondent viz. 11.07.2011 with back wages all attendant benefits, promotion etc with continuity of service from the respective date of joining.



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For Petitioners : Mr.T.R.Rajagopalan,
Senior Counsel
for M/s.S.Ponnarasi

For Respondents
For R1 & 4 : Mr.C.Selvaraj,
Additional Government Pleader

For R2 & 3 : Mr.V.Raghavachari,
Senior Counsel
Mrs.Y.Kavitha,
Standing Counsel

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 10.02.2021 and the consequential order passed by the third respondent dated 26.02.2021 thereby denying the request made by the petitioners to regularize them.

2. The petitioners and others were engaged in consolidated salary in various categories such as electrical operator, mechanical operator, chemist, fitter, electrician, helper, watchman etc., for serving in de-salination plant at Narippaiyur Village, Kadaladi Taluk, Ramanathapuram District to supply drinking water. Even after a lapse of



10 years, they were not observed in regular time scale of pay. Therefore, they approached the fourth respondent for conferment of permanent status from the date of completion of two years of their services. The fourth respondent conducted detailed enquiry and ordered conferment of permanent status by invoking the provisions of Tamilnadu Contract Labour (Regulation and Abolition) Act, 1970 and Tamilnadu Industrial Establishment (Conferment of Permanent Status of workmen) Act, 1981. It was challenged by the third respondent before the Madurai Bench of this Court in WP(MD).No.13038 of 2011 and the same was dismissed. Thereafter, the writ petition filed by the workmen was allowed and the order passed by the fourth respondent was ordered to be complied with. Aggrieved by the same, the third respondent preferred appeal in WA.(MD).No.1005 of 2014 and the same was also dismissed and the order of the fourth respondent was confirmed by the Hon'ble Supreme Court of India.

3. The review petitions were also dismissed by the Hon'ble Division Bench of this Court as well as the Hon'ble Supreme Court of



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India. Only after filing contempt petitions, the order passed by the fourth respondent was implemented and permanent status was provided to the petitioners by an order dated 10.02.2021. However, it was not complied with from the date of the order of the fourth respondent which was further confirmed by the Hon'ble Supreme Court of India.

4. The learned Senior Counsel appearing for the petitioners submitted that the petitioners were not regularized and their salaries were not fixed in the regular time scale of pay though they have been given permanent status. It is completely against the order passed by this Court as well as the Hon'ble Supreme Court of India. The petitioners are entitled to permanent status as Government servants with continuity of service, backwages, including all attendant benefits and promotions from the date of the order passed by the fourth respondent. He further submitted that earlier the present order dated 10.02.2021 was challenged before the Madurai Bench of this Court in WP.(MD).No.20725 of 2021 and by an order dated 27.01.2025, the conditional portion as mentioned in the paragraph 8 of the order impugned dated 10.02.2021 was quashed



and the matter was remanded back to the first respondent for re-consideration and implementation of the order passed by this Court by sanctioning routine increments from the date of fixation of regular time scale of pay within a period of sixteen weeks from the date of receipt of copy of this order. In this regard, the learned Senior Counsel appearing for the petitioners relied upon the judgment of the Hon'ble Supreme Court of India rendered in the case of ***Shripal and Another Vs. Nagar Nigam, Ghaziabad*** in ***Civil Appeal No.8157 of 2024***, wherein it was held as follows:

12. The evidence, including documentary material and undisputed facts, reveals that the Appellant Workmen performed duties integral to the Respondent Employer's municipal functions specifically the upkeep of parks, horticultural tasks, and city beautification efforts. Such work is evidently perennial rather than sporadic or project-based. Reliance on a general "ban on fresh recruitment" cannot be used to deny labor protections to long- serving workmen. On the contrary, the acknowledged shortage of Gardeners in the Ghaziabad Nagar Nigam reinforces the notion that these positions are essential and ongoing, not intermittent.



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13. *By requiring the same tasks (planting, pruning, general upkeep) from the Appellant Workmen as from regular Gardeners but still compensating them inadequately and inconsistently the Respondent Employer has effectively engaged in an unfair labour practice. The principle of “equal pay for equal work,” repeatedly emphasized by this Court, cannot be casually disregarded when workers have served for extended periods in roles resembling those of permanent employees. Long-standing assignments under the Employer’s direct supervision belie any notion that these were mere short-term casual engagements.*

14. *The Respondent Employer places reliance on [Umadevi's case](#) to contend that daily-wage or temporary employees cannot claim permanent absorption in the absence of statutory rules providing such absorption. However, as frequently reiterated, Uma Devi itself distinguishes between appointments that are “illegal” and those that are “irregular,” the latter being eligible for regularization if they meet certain conditions. More importantly, (2006) 4 SCC 1. Uma Devi cannot serve as a shield to justify exploitative engagements persisting for years without the Employer undertaking legitimate recruitment. Given the record which shows no true contractor- based arrangement and a consistent need for*



permanent horticultural staff the alleged asserted ban on fresh recruitment, though real, cannot justify indefinite daily-wage status or continued unfair practices.

16. The High Court did acknowledge the Employer's inability to justify these abrupt terminations. Consequently, it ordered re-engagement on daily wages with some measure of parity in minimum pay. Regrettably, this only perpetuated precariousness:

the Appellant Workmen were left in a marginally improved yet still uncertain status. While the High Court recognized the importance of their work and hinted at eventual regularization, it failed to afford them continuity of service or meaningful back wages commensurate with the degree of statutory violation evident on record.

17. In light of these considerations, the Employer's discontinuation of the Appellant Workmen stands in violation of the most basic labour law principles. Once it is established that their services were terminated without adhering to [Sections 6E](#) and [6N](#) of the U.P. Industrial Disputes Act, 1947, and that they were engaged in essential, perennial duties, these workers cannot be relegated to perpetual uncertainty. While concerns of municipal budget and compliance with recruitment rules merit consideration, such concerns do not absolve the Employer of statutory



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obligations or negate equitable entitlements. Indeed, bureaucratic limitations cannot trump the legitimate rights of workmen who have served continuously in de facto regular roles for an extended period.

18. The impugned order of the High Court, to the extent they confine the Appellant Workmen to future daily-wage engagement without continuity or meaningful back wages, is hereby set aside with the following directions:

I. The discontinuation of the Appellant Workmen's services, effected without compliance with Section 6E and [Section 6N](#) of the U.P. Industrial Disputes Act, 1947, is declared illegal. All orders or communications terminating their services are quashed. In consequence, the Appellant Workmen shall be treated as continuing in service from the date of their termination, for all purposes, including seniority and continuity in service. II. The Respondent Employer shall reinstate the Appellant Workmen in their respective posts (or posts akin to the duties they previously performed) within four weeks from the date of this judgment. Their entire period of absence (from the date of termination until actual reinstatement) shall be counted for continuity of service and all consequential benefits, such as seniority and eligibility for promotions, if any. III. Considering the length of service, the Appellant Workmen shall be entitled to 50%



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of the back wages from the date of their discontinuation until their actual reinstatement. The Respondent Employer shall clear the aforesaid dues within three months from the date of their reinstatement. IV. The Respondent Employer is directed to initiate a fair and transparent process for regularizing the Appellant Workmen within six months from the date of reinstatement, duly considering the fact that they have performed perennial municipal duties akin to permanent posts. In assessing regularization, the Employer shall not impose educational or procedural criteria retroactively if such requirements were never applied to the Appellant Workmen or to similarly situated regular employees in the past. To the extent that sanctioned vacancies for such duties exist or are required, the Respondent Employer shall expedite all necessary administrative processes to ensure these longtime employees are not indefinitely retained on daily wages contrary to statutory and equitable norms.

5. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.



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6. On perusal of the counter filed by the first respondent and on hearing the submissions of the learned Additional Government Pleader appearing for the first respondent, it is revealed that the order passed by the fourth respondent, vide order dated 10.02.2021, has been duly complied with by conferring permanent status to the contract employees. They were not appointed through regular means and they are back door entrants. They have been engaged by the contractor of Tamil Nadu Water Supply and Drainage Board. There is no direct working relationship between the petitioners and the Board. Therefore, the petitioners were already conferred with the permanent status as a one-time measure and it was ensured that the workmen were benefited and at the same time the employer also does not suffer. Therefore, the petitioners cannot try to take advantage of the order passed by the fourth respondent which was confirmed by this Court and the Hon'ble Apex Court to claim further benefit since they have not been recruited following due and transparent process established by the statutory rules and regulations and they have only been engaged by the contractor. Their pay has been fixed as per VII pay commission following the schedule III



Pay Matrix for regular Government employees. In fact, after the order dated 10.02.2021, the petitioners agreed to join in the postings as per the proceedings dated 26.02.2021 without any protest.

7. Further, the special law will prevail over the general law. The Tamil Nadu Water Supply and Drainage Board Act Services Regulations was implemented by virtue of the powers conferred under Section 73 of the Tamil Nadu Water Supply and Drainage Board Act. The provisions of the Conferment of Permanent Status Act would not be applicable for grant for regularization and permanent absorption with reference to the employees of the Tamil Nadu Water Supply and Drainage Board. Therefore, the provisions of the Tamilnadu Industrial Establishment (Conferment of Permanent Status) Act, 1981 is not applicable to the employees of the TWAD Board for granting the benefit of regularization and permanent absorption. This Court, while dealing with the same issue in the case of ***S.Devamani and others Vs. Executive Engineer, TWAD Board, Kancheepuram and others*** dated 22.06.2022, rendered findings as follows:



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11. Thus, it is made clear that the service regulations are in force and such regulations are approved by the Government by virtue of the powers conferred under the Tamil Nadu Water Supply and Drainage Board, 1970. *When the Act* is in force, and by virtue of the said statute, service regulations are framed, then, all the selections, recruitments and regularizations as well as the permanent absorptions are to be strictly made in accordance with law with the statute and the provisions of the service regulations of the TWAD Board. This apart, the Act as well as the Service Regulations, 1972 will prevail over the general law. For the purpose of TWAD Board, the Tamil Nadu Water Supply and Drainage Board, 1970 as well as the service regulations of the year 1972 would be the special law and therefore, the Conferment of Permanent Status Act is to be construed as a general law. Under these circumstances, the *Special Act* and Special Regulations would prevail over the Conferment of Permanent Status for the purpose of considering the case for grant of regularization and permanent absorption in Board's services.

12. In view of the fact that the special law will prevail over the general law and further, the TWAD Board Act and the service regulations constituted by



virtue of the powers conferred under Section 73 of the Tamil Nadu Water Supply and Drainage Board Act, the provisions of the Conferment of Permanent Status Act would not be applicable for grant of regularization and permanent absorption, with reference to the employees of the TWAD Board. Accordingly, the provisions of the Tamil Nadu Industrial Establishment [Conferment of Permanent Status] Act, 1981 is not applicable to the employees of the TWAD Board for granting the benefit of regularization and permanent absorption. Accordingly, issues 1 and 3 are answered.

26. The Inspector of Labour has not considered any of these legal principles settled by the Constitution Bench of the Supreme Court of India. Contrarily, mechanical approach has been adopted by the Inspector of Labour and the relief of permanent status is granted by merely verifying the length of services rendered by these casual laborers. In other words, he simply verified certain records to find out whether the casual laborers have served 480 days or not. If so, then pass an order for grant of permanent status. This being the routine and mechanical orders passed by these Inspector of Labours, this Court has to consider the legal principles, implications and adverse consequences as well as the



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violation of the Constitutional principles.

27. To elaborate the adverse consequences in respect of these routine orders of the Inspector of Labours, for instance, large number of such casual laborers are engaged by various Government Organizations, undertakings, Boards and Government Company. The casual laborers were engaged on daily wage basis in order to complete projects or to meet out certain emergency or exigency. Thus, the casual laborers were not appointed by following the recruitment rules in force. The engagement of these contract laborers on daily wage basis are made on the basis of mere identification. At the outset, all such engagements are made at the choice of the authorities and they are appointed even through certain corrupt practices, favoritism or nepotism. Thus, all these engagements of casual laborers, on need basis, are either illegal or irregular appointment.

29. The adverse consequences of this method of grant of confirmation would be that the principles of equality in employment enunciated in the Constitution is violated. The rule of reservations are violated. The scheme of appointment under the recruitment rules are also violated. Thus, the Constitutional Courts cannot approve such appointments, regularization or permanent



absorption, which would have adverse impact on the concept of social justice as resolved by “We, the people of India” in the preamble of the Constitution.

“Individualization of justice” can never be appreciated. Sometimes one may contend that the molding of relief is not preferable or such molding may be considered as an excess exercise. However, the scope of [Article 226](#) of the Constitution of India has been elaborated by the Constitution Bench and the Larger Benches of the Constitutional Courts across the Country. Thus, as a custodian of the Constitution, the High Court has to ensure that the principles of social justice, philosophy and ethos of the Constitution are also taken care, while granting the relief or molding of the relief. The writ petition under [Article 226](#) cannot be compared with the Civil suit, wherein the issues alone are to be settled with reference to the documents and evidences. Even in a writ petition under [Article 226](#) of the Constitution of India, the Courts are empowered to mould the relief in order to ensure that Constitutional mandates and perspectives are implemented and protected. This being the spirit of the Constitution, this Court is of the considered opinion that the principles laid down by the Constitutional Bench in “Uma Devi Case”, is not only the guiding principles, but



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also binding the law under [Article 141](#) of the Constitution of India. Thus, any other judgment of any High Court or the judgment of the two judges Bench of the Hon'ble Supreme Court of India denuded of their status as precedents. All the Courts across the Country are bound by the Constitution Bench judgment in the matter of grant of permanent absorption, with reference to the illegal or irregular appointments.

34. The Inspectors of Labour are routinely and mechanically passing orders conferring permanent status without following the legal principles settled by the Apex Court of India. Number of such orders are passed. However, the fact remains that the casual labourers/daily wage rated employees who were engaged by the Government Departments or Government Undertakings or Organizations are very much aware of their engagements and they have no right of permanent absorption. The terms and conditions of such services are also known to these casual labourers. Accepting all such terms and conditions, they are working as casual labourers/daily wage rated employees. Under these circumstances, the Modus Operandi being adopted by these casual laborers or their Organizations/Unions is that to file an application before the Inspector of Labour, get a routine



order of the permanent status and file a writ petition seeking implementation of the order of Inspector of Labour. Thereafter, secure permanent appointment in the Government Organizations, Undertakings and Departments. This Modus Operandi being followed by these causal labourers for securing permanent appointment in Government Organizations/Undertakings is in violation of the Constitution of Scheme of appointments and recruitment rules can never be approved by the High Court. Such a practice is going on for the purpose of securing public appointments across the State, more specifically, in Government Undertakings, Government Organizations and Government Departments. The Standing Orders are not adopted by the Government Departments/Organizations. When a separate statute is in force governing the Organizations and Service Regulations are also framed by virtue of powers conferred under the Act, then there is no reason whatsoever to grant such routine orders of permanent status by the Inspector of Labour under the general law.

Under these circumstances, this Court is of the strong opinion that such method of back door appointments/permanent absorptions must be stopped at once in order to enforce the principles of equal



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opportunity in employment enunciated in the Constitution of India.

Such a back door route created for securing permanent absorption is undoubtedly unconstitutional. Accordingly, Issue No.2 is answered.

8. The above judgment is squarely applicable to the case on hand. Therefore, the first respondent rightly passed the order dated 10.02.2021 by giving permanent status to the petitioners by fixing pay matrix at the minimum of the level since they are not entitled to be regularized. As such, the judgment cited by the learned Senior Counsel appearing for the petitioners is not helpful to the case on hand and this Court finds no infirmity or illegality in the impugned orders.

9. In view of the above discussion, this writ petition is dismissed. Consequently, connected miscellaneous petition is closed.

There shall be no order as to costs.

04.11.2025

Neutral citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

1. Additional Chief Secretary to Government,
The State of Tamil Nadu,
Municipal Administration and Water Supply (WS3) Department,
Fort St. George, Chennai-9
2. The Managing Director,
TWAD Board,
No.31, Kamarajar Salai,
Chepauk, Chennai-5
3. The Executive Engineer, (TWAD Board),
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4. The Inspector of Police,
Sivagangai, Sivagangai District
5. The Government Advocate,
High Court of Madras

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