



WEB COPY



W.P.No.23662 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

|                      |            |
|----------------------|------------|
| <b>Reserved on</b>   | 30.07.2025 |
| <b>Pronounced on</b> | 29.08.2025 |

CORAM

THE HONOURABLE Mr.JUSTICE **C.KUMARAPPAN**

**W.P.No.23662 of 2025**  
**and**  
**W.M.P.Nos.26628 and 26629 of 2025**

1. S.Saravanan
2. Sundareswaran
3. S.Vasudevan
4. K.M.R.Shanthi
5. N.Palanisamy
6. R.Tiripurakumar
7. R.Arul
8. P.Wilfred Soundaram

... Petitioners

Vs.

1. State of Tamil Nadu,  
Rep. by its Secretary,  
Welfare of Differently abled Persons Department,  
Chennai.
2. The Commissioner/Project Director,  
Commissionerate Welfare of the Differently Abled,  
Department for the Welfare of the Differently  
Able Persons (DWDAP),  
Lady Willingdon Campus,  
Kamaraj Salai,  
Chennai.

... Respondents



W.P.No.23662 of 2025

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned paper publication published in Thinamani Newspaper dated 02.06.2025 on the file of the second respondent and quash the same as illegal and consequently for a direction, forbearing the respondents from disengaging the petitioners within the time period stipulated by this Court.

For Petitioner : Ms.T.Seeni Syed Amma  
for M/s.Roy and Roy Associates

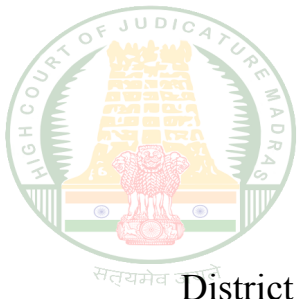
For Respondents : Mr.R.U.Dinesh Raj Kumar,  
Additional Government Pleader

\*\*\*\*\*

### **ORDER**

The instant writ petition has been filed challenging the impugned paper publication in Dinamani Newspaper dated 02.06.2025 on the file of the second respondent.

2. The learned counsel for the petitioners would submit that these petitioners are presently working as District Program Officers under the Tamil Nadu Rights Project on a contractual basis since 05.09.2023. The learned counsel would further submit that in the first phase selection, 32



W.P.No.23662 of 2025

WEB COPY

District Program Officers were selected. Out of them, 12 candidates were allotted to the “Community Service”, 10 candidates were allotted to the “Training”, and the remaining 10 candidates were allotted to the “Partnership Development and Convergence”.

2.1. It is the specific submission of the learned counsel for the petitioners that persons with disabilities face multiple socio-economic constraints, including poorer health outcomes, lower education levels, limited economic participation, and higher rates of poverty compared to normal persons. It is the further contention of the learned counsel that persons with disabilities often experience exclusion and barriers in accessing health services, education, employment, transportation, information, as well as care and rehabilitation services. Therefore, the Government had a special initiative under the second respondent's supervision and appointed District Program Officer on contractual basis for a period of 12 months, which is subject to removal based on the performance of the respective individuals.

2.2. The learned counsel for the petitioners would further submit that though 32 District Program Officers have been functioning in various

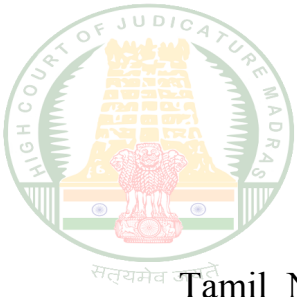


W.P.No.23662 of 2025

WEB COPY

districts, now that the second respondent has initiated another recruitment process, vide publication dated 02.06.2025, and thereby, they would discharge and terminate the petitioners by way of a new set of contractual employees. The learned counsel for the petitioners would also invite the attention of this Court to the judgment of the Hon'ble Supreme Court of India in *Manish Gupta and another Vs. Jan Bhagidari Samiti*, reported in (2022) 15 SCC 540, where the Hon'ble Supreme Court of India has held that, one contractual set of employees cannot be replaced by another set of contractual employees. Therefore, contended that, the very attempt of the second respondent is nothing but an attempt to employ another set of contractual employees in the place of the petitioners, who have already been doing the same job on a contractual basis. It is the further submission of the learned counsel that in a similar set of facts, this Court, under various judgments, has disapproved the engagement of another set of contractual employees. Hence, prayed to quash the impugned recruitment notification dated 02.06.2025.

3. Per contra, the learned Additional Government Pleader appearing for the respondents would contend that in order to strengthen the reach of last-mile service delivery to Differently Abled Persons, the Government of

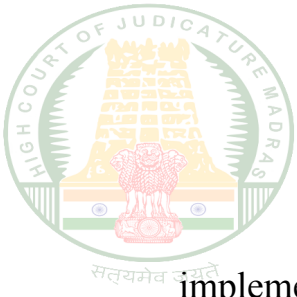


W.P.No.23662 of 2025

WEB COPY

Tamil Nadu, through the Department for the Welfare of the Differently Abled Persons, is implementing the Tamil Nadu Inclusion, Rights and Opportunities for Persons with Disabilities (TN RIGHTS) Project (hereinafter referred to as 'the TN RIGHTS Project' for short), with financial assistance from the World Bank. It is the further submission of the learned Additional Government Pleader that the objective of the project is to enhance the social protection systems and institutional capabilities of the State to promote inclusion, accessibility, and opportunities for persons with disabilities. He would further submit that the TN RIGHTS Project is the first-of-its-kind initiative in the entire South Asian Region, which is implemented at a cost of Rs.1,773 Crores, which is funded by the World Bank.

3.1. The learned Additional Government Pleader would further contend that initially the project was commenced in five selected districts. Thereafter, it was subsequently expanded to 10 more districts, and is currently operational across all 39 districts of Tamil Nadu, including two divisions in Chennai. He would further submit that the contract of the existing District Program Officers has expired in the month of March 2025 and was extended till 31.07.2025. It is his further submission that, while



W.P.No.23662 of 2025

WEB COPY

implementing the scheme, the department found certain shortcomings in the existing project. The learned Additional Government Pleader would further submit that the age of the District Program Officers is a main barrier for them to achieve the last-mile connectivity, as the persons who are now holding the said post are overaged. Therefore, they decided to recruit the candidates having the age of 45 years and below.

3.2. He would further submit that the petitioners have no vested right to claim the continuance of the post, as they very well knew that, their appointment is time bound. Therefore, he would contend that the present incumbents cannot have any grievance in the present recruitment process, and further would contend that the persons who are eligible within the present notification are well within their rights to apply for the same. Hence, he prayed to dismiss the present Writ Petition.

4. I have given my anxious consideration to either side submissions.

5. The short point to be considered in the present Writ Petition is whether the incumbents, who are ad hoc appointees / contractual appointees,

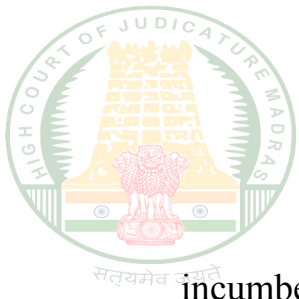


W.P.No.23662 of 2025

WEB COPY

can be replaced by another set of ad hoc / contractual employees. It is a well-settled principle of law that such replacement of one ad hocism with another ad hocism is impermissible, as the judgment of the Hon'ble Supreme Court of India in ***Manish Gupta's case*** (cited supra) has categorically held that contractual employees can continue to work on their respective posts until regular selections are made. It is also relevant to refer to the judgment of this Court in ***W.P.Nos.19335 & 18552 of 2023, vide order dated 29.08.2023***, where this Court has disapproved the appointment of another set of contractual employees to replace existing contractual employees.

6. However, the main contention put forth by the learned Additional Government Pleader is that, from the experience of the existing contractual employment, the Department has found certain shortcomings in the service delivery. Therefore, in order to rule out the avoidable shortcomings and to have the effective last-mile reach to the differently abled persons, they need young people. Hence, they reduced the maximum age limit for the recruitment of District Program Officer to 45 years. For this, they contended that the District Program Officer has to necessarily travel extensively across the length and breadth of the district as well as the state, whereas the present



W.P.No.23662 of 2025

WEB COPY

incumbents who are overaged find it difficult, which indirectly causes a dent in the effective service delivery.

7. While looking at the previous recruitment, 32 persons were recruited as District Program Officers, vide notification dated 07.02.2023. Out of the 32 District Program Officers, only 8 persons have filed the present Writ Petition. Even in the counter-affidavit, the respondents have categorically averred that the incumbents are overaged and they find it difficult to travel.

8. It is a well-settled principle of law that, though the employer has every right to determine the eligibility criteria, having appointed them based on their merit, the fact that some of the appointees become overaged cannot be a reason to simply replace them with young persons; it is pertinent to refer that, when the Government fixes the retirement age as either 58 or 60, replacing them before attaining the age of superannuation, by another set of young contractual employee is without any rational and contrary to the ratio of the Hon'ble Supreme Court's judgement. Further, if the age of the incumbent is the only criteria for fresh recruitment, the respondent would



W.P.No.23662 of 2025

WEB COPY

have very well retained those who are below 45 years in the post. But the notification does not contain such statement. According to the respondents, they are now recruiting 117 District Program Officers, whereas as of today, there are 32 District Program Officers already in service. The respondents contended that many of them are not in a position to do their job as expected by the scheme. But the performance of a person, cannot be generalized based on age. Even the prospective recruits will not be in constant, and after few years, they also cross the age of 45 years.

9. While looking at the counter-affidavit, they have tabulated the age of the petitioners; the 8th petitioner is 59 years old, and he will retire soon. It is pertinent to mention here that these petitioners were already joined in service during 2023, and have been in service for a period of more than two years. Accordingly, they have gained some experiences, and such experience would definitely be more beneficial to the scheme. We also cannot lose sight of the right of the employer to fix eligibility criteria at 45 years for a post, but the same does not mean that, those who were already recruited, and aged above 45 years will become ineligible.



W.P.No.23662 of 2025

WEB COPY

10. Therefore, this Court is of the firm opinion that when there are no records to substantiate the difficulty faced by the respondents because of the overaged persons, it is illegal to replace them. Even according to the petitioners, their service were renewed to subsequent years based on their performance.

11. Though the counter-affidavit says about poor performance, admittedly no document is produced, and no disciplinary proceedings initiated against these petitioners. Therefore, this Court is of the firm view that, the respondents cannot simply replace the already existing contractual employees of the project with another set of contractual employees, which, as rightly contended by the learned counsel for the petitioners, is contrary to the judgment of the Hon'ble Supreme Court of India in *Manish Gupta's case* (cited supra).

12. However, while looking at the prayer, the petitioners are seeking to quash the entire notification. According to the counter-affidavit, the second respondent is contemplating recruitment of 117 District Program Officers, and these 117 District Program Officers include the 32 District Program



W.P.No.23662 of 2025

WEB COPY

Officers, which includes these petitioners. Therefore, in order to maintain a balance between the legitimate expectation of the petitioners and the ever changing requirement of the respondents, this Court deems it appropriate to permit the fresh recruitment, except for the 32 District Program Officers who are already in service.

13. In view of the above detailed discussion, the impugned notification dated 02.06.2025 is hereby quashed to the extent of the 32 District Program Officer vacancies, which are occupied by the petitioners and similarly situated persons. As against the other posts, viz.,  $117 - 32 = 85$  posts, and against any arising vacancies, the respondents are at liberty to proceed with the recruitment based upon the impugned notification in accordance with law.

14. In the result, this Writ Petition is partly allowed as indicated above. Consequently, the connected Miscellaneous Petitions are closed. No costs.

**29.08.2025**

**1/2**

kv

Index : Yes/No

Speaking order /Non Speaking Order

Neutral Citation : Yes/No



*W.P.No.23662 of 2025*

WEB COPY

1. State of Tamil Nadu,  
Rep. by its Secretary,  
Welfare of Differently abled Persons Department,  
Chennai.
2. The Commissioner/Project Director,  
Commissionerate Welfare of the Differently Abled,  
Department for the Welfare of the Differently  
Abled Persons (DWDAP),  
Lady Willingdon Campus,  
Kamaraj Salai,  
Chennai.



WEB COPY



*W.P.No.23662 of 2025*

**C.KUMARAPPAN, J.**

kv

Pre-Delivery Order in  
W.P.No.23662 of 2025

29.08.2025

1/2