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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

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THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.28278 of 2024
and
W.M.P.No.30818 of 2024

J.Rajathilagam

.. Petitioner

Vs.

1.The State of Tamil Nadu
Rep. by its Principal Secretary,
Public Works Department,
Fort St. George, Chennai – 9.

2.The Chief Engineer (General) and
Engineer in Chief, WRO,
Public Works Department,
Chepauk, Chennai – 5.

3.The Assistant Executive Engineer,
Buildings, Construction & Maintenance, Sub-Division-1,
Public Works Department,
Coimbatore.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for records relating to the order of the 2nd respondent made in Letter No. S.3(2)/040912/2022 dated 24.07.2023 and to quash the same and to consequently direct the respondents to grant of minimum time scale of pay



of Rs.18,500/- per mensem applying equal pay for equal work under Article 39 (d) of the Constitution of India and as had been granted and extended in favour of similarly placed persons as per G.O.Ms. No.233, Public Works Department dated 06.12.2019.

For Petitioner .. Mr.L.Chandrakumar
For R1 to R3 .. Mr.V.Nanmaran, AGP

ORDER

The Writ Petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to an order of the 2nd respondent dated 24.07.2023 and to quash the same and to direct the respondents to grant minimum time scale of pay of Rs.18,500/- per month to the petitioners as had been extended in G.O.Ms.No.233, Public Works Department dated 06.12.2019.

2.In the affidavit filed in support of the writ petition it had been contended that the petitioner had been appointed as Nominal Muster Roll (NMR) casual labourer on 01.03.1998 and continue to discharge work under the respondents. It had been stated that though she had put to continuous uninterrupted work, her services had neither been regularized nor her salary had been brought under the regular minimum time scale of pay.



3. In this connection, it had further been contended that the respondents had passed G.O.Ms.233 Public Works Department date 06.12.2019 wherein, a Screening Committee had been formed to identify the similarly placed workmen like the petitioner and 3407 daily rated casual labourers had been pointed out and granted minimum time scale of pay.

4. Unfortunately, the case of the petitioner had not been examined by the Screening Committee. In the impugned order, it had been contended that the petitioner cannot be brought into regular service since she had not been recommended before the Screening Committee. It is therefore contended that the claim of the petitioner cannot be addressed by the respondents. Therefore, it is sought that the writ petition should be dismissed.

5. Heard both sides.

6. The fact that the petitioner had been in continuous employment, albeit as NMR casual labourers for a considerable period of time and without any break in service cannot be either denied or disputed by the respondents. The only issue is about her claim to be brought into regular



time scale of pay. She claimed that she must be paid a sum of Rs.18,500/- per month. It is seen that the respondents had passed G.O.Ms.No.233 Public Works Department dated 06.12.2019. The Screening Committee had examined the case of 3407 daily rated workers and had recommended that they should be paid with regular time scale of pay at Rs.18,500/- per month. Unfortunately, the records of the petitioner had not placed before the Screening Committee.

7.It is contended by the learned counsel for the petitioner that the Screening Committee was a one time measure. By the impugned order, the respondents had proceeded on the basis that the petitioner seek regularization of service and therefore, the impugned order had been passed rejecting the claim of the petitioner.

8.In this connection, reference could be made to the observations and dictum laid down by the Hon'ble Supreme Court in ***Jaggo V. Union of India and Others reported in 2024 SCC OnLine SC 3826***, wherein, it had been held as follows:



25. It is a disconcerting reality that temporary employees, particularly in government institutions, often face multifaceted forms of exploitation. While the foundational purpose of temporary contracts may have been to address short-term or seasonal needs, they have increasingly become a mechanism to evade long-term obligations owed to employees. These practices manifest in several ways:

- *Misuse of “Temporary” Labels: Employees engaged for work that is essential, recurring, and integral to the functioning of an institution are often labeled as “temporary” or “contractual,” even when their roles mirror those of regular employees. Such misclassification deprives workers of the dignity, security, and benefits that regular employees are entitled to, despite performing identical tasks.*

- *Arbitrary Termination: Temporary employees are frequently dismissed without cause or notice, as seen in the present case. This practice undermines the principles of natural justice and subjects workers to a state of constant insecurity, regardless of the quality or duration of their service.*

- *Lack of Career Progression: Temporary employees often find themselves excluded from opportunities for skill development, promotions, or incremental pay raises. They remain stagnant in their roles, creating a systemic disparity between them and their regular counterparts, despite their contributions being equally significant.*



- *Using Outsourcing as a Shield: Institutions increasingly resort to outsourcing roles performed by temporary employees, effectively replacing one set of exploited workers with another. This practice not only perpetuates exploitation but also demonstrates a deliberate effort to bypass the obligation to offer regular employment.*

- *Denial of Basic Rights and Benefits: Temporary employees are often denied fundamental benefits such as pension, provident fund, health insurance, and paid leave, even when their tenure spans decades. This lack of social security subjects them and their families to undue hardship, especially in cases of illness, retirement, or unforeseen circumstances.*

26. While the judgment in *Uma Devi* (supra) sought to curtail the practice of backdoor entries and ensure appointments adhered to constitutional principles, it is regrettable that its principles are often misinterpreted or misapplied to deny legitimate claims of long-serving employees. This judgment aimed to distinguish between “illegal” and “irregular” appointments. It categorically held that employees in irregular appointments, who were engaged in duly sanctioned posts and had served continuously for more than ten years, should be considered for regularization as a one-time measure. However, the laudable intent of the judgment is being subverted when institutions rely on its dicta to indiscriminately



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reject the claims of employees, even in cases where their appointments are not illegal, but merely lack adherence to procedural formalities. Government departments often cite the judgment in Uma Devi (supra) to argue that no vested right to regularization exists for temporary employees, overlooking the judgment's explicit acknowledgment of cases where regularization is appropriate. This selective application distorts the judgment's spirit and purpose, effectively weaponizing it against employees who have rendered indispensable services over decades.

27. In light of these considerations, in our opinion, it is imperative for government departments to lead by example in providing fair and stable employment. Engaging workers on a temporary basis for extended periods, especially when their roles are integral to the organization's functioning, not only contravenes international labour standards but also exposes the organization to legal challenges and undermines employee morale. By ensuring fair employment practices, government institutions can reduce the burden of unnecessary litigation, promote job security, and uphold the principles of justice and fairness that they are meant to embody. This approach aligns with international standards and sets a positive precedent for the private sector to follow, thereby contributing to the overall betterment of labour practices in the country.



WEB COPY 9. The Hon'ble Supreme Court had distinguished the case of contract workers, casual labourers and also nominal muster roll workers from the earlier case in *Secretary, State of Karnataka Vs. Uma Devi, (2006) 4 SCC 1*, and had stated that, if the initial employment is not irregular, then the State cannot exploit labour from them and continue to exploit such labourers by keeping them on a temporary basis without bringing them into regular service. It had also been observed that the State must be a model employer.

10. The learned counsel for the petitioner also placed reliance on the observation of a learned Single Judge of this Court in *W.P.No.27770 of 2023 dated 31.01.2025, R.Palanisamy and 12 others Vs. The State of Tamil Nadu, Rep. by its Principal Secretary, Public Works Department, Chennai*, wherein, in similar circumstances, a learned Single Judge had observed and held as follows:

“19. As rightly contended by the learned counsel for the petitioners the second respondent passed the impugned order in a total misconception that the G.O.Ms.No.233 dated 06.12.2019 of the Public Works Department would be



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applicable and to be extended only for those 3407 daily rated employees. If the names of the petitioners were sent to the Screening Committee on time then the names of the petitioners would have been considered by the Screening Committee and subsequently included in G.O.Ms.No.233 dated 06.12.2019 of the Public Works Department and the number of daily rated employees would have been more than the 3407.

20. The petitioners are the similarly persons to that of the above 3407 daily rated employees and it has to be extended to them also and depriving of the same will be against the principles of natural justice and also in violation of Article 14 of the Constitution of India.

21. If the respondents were not able to forward or submit the names of the petitioners herein due to the administrative delay i.e., verification of documents, then in such case they must have requested the Screening Committee to extend the time for submitting the particulars of the similarly placed persons which they failed to do so for which the petitioners cannot be allowed to suffer for no fault on theirs.

22. It is crystal clear and evident that the respondents wanted to propose and forward the names of the petitioners to the Screening Committee since their own record shows that they all worked during the period from 2008 to 2019 and some for more than ten years and they are entitled for the minimum pay scale as per G.O.Ms.No.233, Public Works Department



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dated 06.12.2019, which is also evident through the impugned order that due to delay in verification of documents/recitals the names of the petitioners could not be forwarded to the Screening Committee.

23. No doubt it is the duty cast upon the respondents to submit the documentary proof of the petitioners to the Screening Committee and not the petitioners that is the reason the respondents are saying that there is an administrative delay in submitting the same in the impugned order. Hence the other contention of the respondents that the petitioners should prove the case with the documents before the Screening Committee is also unsustainable and untenable in law.

24. In view of the above facts and circumstances of the case, the proceedings of the 2nd respondent vide order No.S.4(1)/30584/2021 dated 03.03.2023 is liable to be quashed accordingly the same is hereby quashed. The respondents are directed to grant the minimum scale of pay with Dearness Allowance applicable from time to time to the petitioners as had been granted and extended in favour of the similarly placed persons as per G.O.Ms.No.233, Public Works Department dated 06.12.2019 within a period of eight weeks from the date of receipt of a copy of this order.”

11.The learned Single Judge had quashed the impugned order therein



and had issued a direction to grant minimum time scale of pay along with dearness allowance applicable from time to time to the petitioners therein.

The same order also enures to the petitioner herein.

12.The judgment of Hon'ble Supreme Court further reinforces that the petitioner should not have been exploited continuously by the respondents and kept as a casual labourer with threat of coercive action against them without putting them on notice. This would go contrary to how a model State should discharge its duties to the labourers.

13.In view of the above reasons, the impugned order is set aside. A direction is given to the respondents to grant minimum time scale of pay to the petitioner together with dearness allowance as applicable from time to time as had been granted and extended in favour of similarly placed persons in G.O.Ms.No.233 Public Works Department dated 06.12.2019 within a period of eight weeks from the date of receipt of a copy of this order.

14.Accordingly, this Writ Petition stands allowed. No costs.



Consequently, connected Writ Miscellaneous Petition is closed.

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Index: Yes/No
Internet: Yes/No
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