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W.A.No.3439 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	10.12.2024
Pronounced On	29.04.2025

Coram:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR
and
THE HON'BLE MR.JUSTICE C.SARAVANAN

W.A.No.3439 of 2024
and C.M.P.No.26669 of 2024

1.The Commissioner,
 Rural Development and Panchayat Raj,
 Panagal Maligai, 4th & 5th Floor,
 Abdul Razzak Street, Saidapet.

2.The District Collector,
 Krishnagiri District.

...Appellants

Versus

1.S.Raghu
 2.Block Development Officer,
 Kelamangalam Block,
 Krishnagiri District.

...Respondents

Prayer:

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 04.01.2024 made in W.P.No.15475 of 2021 and allow the above writ appeal.



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For Appellants : Mr.R.Neelakandan,
Additional Advocate General
Assisted by
Mr.S.Yashwanth,
Additional Government Pleader

For Respondent – 1 : Ms.Dakshayani Reddy,
Senior Counsel
for Ms.S.Suneetha

JUDGMENT

(Judgment of the Court was delivered by **C.SARAVANAN, J.**)

This intra Court Appeal is directed against the order dated 04.01.2024 passed by the Writ Court in W.P.No.15475 of 2021.

2. The 1st respondent/petitioner had filed W.P.No.15475 of 2021 for issuance of a writ of mandamus directing the respondents to regularize his service in the post of Computer Assistant/Computer Operator in the office of the Block Development Officer, Kelamangalam Block in line with the recommendation of the 2nd respondent herein in Na.Ka.No.3147/2012/A1 dated 26.10.2012 in line with the judgment of this Court in W.P.No.6595 of



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2018 dated 28.08.2019 from the date of initial appointment with all service and monetary benefits.

3. By the impugned order, the Writ Court has disposed of the writ petition filed by the 1st respondent/writ petitioner with the following observation:

“7. Even though the respondents have stated that the petitioner was never engaged by the 3rd respondent directly, the records would show that his engagement was direct and he was in service for more than 10 years. Only in view of that, in the list of candidates sent in response to the telephonic message of the District Collector, the 3rd respondent name has also been included.

8. Since the petitioner's case squarely falls under the earlier judgments of this Court in W.A.No.3954 of 2019 and he has completed 10 years of service, the respondents are directed to consider the case of the petitioner sympathetically for the purpose of his regularization and pass favourable orders as expeditiously possible.”

4. The learned Additional Advocate General who appears for the appellants (respondents 1 & 2 in W.P.No.15475 of 2021) assailed the impugned order primarily on the ground that there are no records to substantiate that the 1st respondent/writ petitioner was a direct employee of the appellants herein.



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5. The case of the appellants is that the 1st respondent/writ petitioner never attended work after 10.07.2021. Pursuant to the order dated 16.06.2022 passed in Contempt Petition No.410 of 2022 by this Court, the 1st respondent/writ petitioner was however allowed to attend the office work from 17.06.2022. It is further submitted that the 1st respondent/writ petitioner attended the office only for two days and thereafter, never attended the work till date. Hence, the writ petition itself has become infructuous from 17.06.2022.

6. The learned Additional Advocate General further submitted that there are no service registers available to show that the salary of the 1st respondent/writ petitioner was paid to him by the appellants herein. It is submitted that salary was paid out of the contingency fund and that the 1st respondent/writ petitioner was not even given a time scale of pay. Hence, the impugned order is liable to be interfered with. In addition to his submissions, the learned Additional Advocate General has referred to the following decisions of the Honourable Supreme Court:



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- (i) *State of Rajasthan Vs. Daya Lal* reported in (2011) 2 SCC 429
- (ii) *State of Karnataka Vs. Umadevi* reported in (2006) 4 SCC 1
- (iii) *M.Raja Vs. CEERI Educational Society* reported in (2006) 12 SCC 636
- (iv) *S.C.Chandra Vs. State of Jharkhand* reported in (2007) 8 SCC 279
- (v) *Kurukshetra Central Coop. Bank Ltd. Vs. Mehar Chand* reported in (2007) 15 SCC 680
- (vi) *Official Liquidator Vs. Dayanand* reported in (2008) 10 SCC 1
- (vii) *Union of India & Ors. Vs. Ilmo Devi & Anr.* reported in (2021) 20 SCC 290

7. The learned Additional Advocate General further submitted that in the case of *Union of India & Ors. Vs. Ilmo Devi & Anr. (2021) 20 SCC 290*, the Honourable Supreme Court in no uncertain terms held that the regularization can be only as per the regularization policy declared by the State/Government and nobody can claim the regularization as a matter of right dehors the regularization policy of the Government.

8. Further, the learned Additional Advocate General also sought to buttress the challenge by drawing the attention of this Court to the Service Register of one Mrs.Ambujamma bearing the signature of the Commissioner



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of Panchayat Union, Kelamangalam which was in variance with the appointment order dated 15.11.2002 furnished by the respondent/writ petitioner before the Writ Court.

9. It is further stated that in the appointment order dated 15.11.2002 issued by the Commissioner of Panchayat Union, Kelamangalam, it has been clearly stated that from 15.11.2002 onwards, the service of the 1st respondent/writ petitioner will be utilized on daily wage basis to operate the computer in the office of Kelamangalam Panchayat Union and to take a photocopy of the office letters & urgent reports called for by the Higher Officials. It is also stated that the appointment of the 1st respondent/writ petitioner is a temporary appointment. The 1st respondent/writ petitioner was only an employee of the contractor to whom the contract was outsourced. Hence, the 1st respondent/writ petitioner was not entitled to the relief sought for in the writ petition.

10. On the other hand, the learned Senior Counsel appearing for the 1st respondent/writ petitioner drew the attention of this Court to the



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proceedings dated 26.10.2012 of the Block Development Officer, Kelamangalam bearing Reference No.3147/2012/A1 addressed to the District Collector (Development Section), Krishnagiri. In the said proceedings, the Block Development Officer has clearly stated that the 1st respondent/writ petitioner has been working as computer operator on temporary basis in the office of the Kelamangalam Panchayat Union for more than 10 years and he had also been deputed as an Observer Personal Assistant during the 2006-Legislative Assembly Election and 2011-Local Government Election.

11. We have heard the learned Additional Advocate General for the appellants as well as the learned Senior Counsel for the 1st respondent/writ petitioner. We have also perused the impugned order, affidavit, counter affidavit and other materials available on record.

12. It is to be noted that the 1st respondent/writ petitioner was not a regular employee or a government servant selected by the Tamil Nadu Public Service Commission (TNPSC). Hence, the 1st respondent/writ



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petitioner was not eligible for absorption into service as a government servants as a matter of right.

13. From a perusal of the records, it is seen that the 1st respondent/writ petitioner had earlier filed W.M.P.No.16409 of 2021 in W.P.No.15475 of 2021 praying to grant an order of ad-interim injunction to restrain the appellants and 2nd respondent from disturbing him from discharging the duty as Computer Assistant in the office of the 2nd respondent and thereby, to allow the respondent/writ petitioner to continue to pay salary to him by the 2nd respondent herein pending disposal of W.P.No.15475 of 2021. This Court vide its order dated 15.12.2021, also granted an order of interim injunction as prayed for in the said petition.

14. Despite the aforesaid order of interim injunction, the 1st respondent/writ petitioner was not allowed to report duty. Hence, the 1st respondent/writ petitioner had filed a Contempt Petition in Cont.P.No.410 of 2022 seeking to punish the appellants and 2nd respondent for the willful disobedience of order dated 15.12.2021. Thereafter, the 2nd respondent has



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complied the order dated 15.12.2021 and hence, the said contempt petition was closed on 23.06.2022.

15. We are of the view that the documents that have been filed before us by the appellants as well as the 1st respondent/writ petitioner clearly indicate the fact that the 1st respondent/writ petitioner was predominantly engaged as Computer Operator on temporary basis, for a long period of time since 15.11.2002. Therefore, the 1st respondent/writ petitioner was entitled to be absorbed into regular service as was done in the case of petitioners in W.P.No.6595 of 2018.

16. The order dated 30.08.2019 passed by this Court in W.P.No.6595 of 2018 was modified by the Division Bench of this Court in W.A.No.3954 of 2019 to the effect that the benefits of G.O.Ms.No.74 Personnel and Administrative Reforms Department, dated 27.06.2013 can be extended to similarly placed computer operators who have completed 10 years of service. Therefore, we find no merits in the challenge to the impugned order of the Writ Court as benefits have been confirmed on person similar to



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the petition.

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17. Since the records clearly indicate that the 1st respondent/writ petitioner has rendered more than 10 years of service as computer operator in the office of the 2nd respondent herein, the 1st respondent/writ petitioner was entitled for preference in the matter of appointment and recruitment. We therefore do not wish to interfere with the impugned order of the Writ Court. Hence, this Writ Appeal is liable to be dismissed. Accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.)

(C.S.N., J.)

29.04.2025

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Index : Yes

Neutral Citation: Yes

Speaking Order (or) Non-Speaking Order



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