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W.A.(MD)Nos.1203 of 2020 & 40 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.A(MD)Nos.1203 of 2020 & 40 of 2023

and

C.M.P(MD)Nos.438 & 4521of 2023

W.A(MD)No.1203 of 2020:

- 1.P.Pandiaraja
- 2.J.Nagoor Maideen
- 3.P.Senthilkumar
- 4.M.Eswari
- 5.M.Pandipriya
- 6.V.Krishnamoorthy
- 7.A.Chandraleka
- 8.V.Mariya Yagappan
- 9.R.Guru Mathavan
- 10.K.Anbukarasi
- 11.G.Venkatesh Prabu



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12.N.Sathyan

13.C.Saravanakumar

14.M.Mangaleswaran

15.S.Syed Aref

16.G.Subathradevi

... Appellants /
Petitioners 1, 3 to 12,
14, 16, 17, 18 & 20

Vs.

1.The State represented by
The Secretary to Government,
Public Works Department,
Secretariat,
Fort St.George,
Chennai – 600 009.

2.The Chief Engineer (General) /
The Engineer-in-Chief WRD,
Public Works Department,
Chepauk,
Chennai – 600 005.

3.The Chief Engineer,
Water Resources Department,
Public Works Department,
Chepauk,
Chennai – 600 005.

4.The Director of Vigilance and
Anti-Corruption,
O/o.The Director of Vigilance and
Anti – Corruption,
Chennai.



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5.The Employees' Provident Fund Organization,
Represented by its
Regional Provident Fund Commissioner,
Madurai.

... Respondents /
Respondents 1 to 5

6.P.Mariappan

7.P.Kadarkarai

8.K.Muniyandi

9.S.Nainar

... Respondents /
Petitioners 2, 13,
15 & 19

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 01.10.2020 made in W.P(MD)No.8092 of 2020 so far as the appellants are concerned.

For Appellants : Mr.M.Gandhirajan
for A.1, A.2, A.4 to A.7, A.10 to A.12,
A.14 to A.16

Mr.S.Arivalagan
for A.3, A.8, A.9 & A.13

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.A.Baskaran
Additional Government Pleader
for R.1 to R.5



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W.A(MD)No.40 of 2023:

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- 1.The State represented by
The Secretary to Government,
Public Works Department,
Secretariat, Fort St.George,
Chennai – 600 009.
- 2.The Chief Engineer (General) /
The Engineer-in-Chief WRD,
Public Works Department,
Chepauk, Chennai – 600 005.
- 3.The Chief Engineer,
Water Resources Department,
Public Works Department,
Chepauk, Chennai – 600 005.

... Appellants /
Respondents 1 to 3

Vs.

- 1.P.Pandiaraja
- 2.P.Mariappan
- 3.J.Nagoor Maideen
- 4.P.Senthilkumar
- 5.M.Eswari
- 6.M.Pandipriya
- 7.V.Krishnamoorthy
- 8.A.Chandrleka
- 9.V.Mariya Yagappan
- 10.R.Guru Mathavan



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11.K.Anbukarasi

12.G.Venkatesh Prabu

13.P.Kadarkarai

14.N.Sathyan

15.K.Muniyandi

16.C.Saravanakumar

17.M.Mangeswaran

18.S.Syed Aref

19.S.Nainar

20.G.Subathradevi

... Respondents 1 to 20 /
Petitioners 1 to 20

21.The Director of Vigilance and
Anti Corruption,
O/o.The Director of Vigilance and
Anti Corruption,
Chennai.

22.The Employees' Provident Fund Organization,
Represented by its
Regional Provident Fund,
Commissioner, Madurai.
***(Respondents 1, 3 to 14, 16 to 18 and
20 to 22 are given up vide Court order
dated 13.12.2022 made in
C.M.P(MD)no.12120 of 2022 in
W.A(MD)SR No.73524 of 2022)***

... Respondents /
Petitioners 2, 13, 15 & 19

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to call for



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the records of the impugned order dated 01.10.2020 passed by the learned Judge in W.P(MD)No.8092 of 2020 insofar as it relates to Para 56(1) and 56(2) and set aside the same and allow the Writ Appeal.

For Appellants : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.A.Baskaran
Additional Government Pleader

For Respondents : Mr.M.Saravanakumar
for R.2, R.15 & R.19

Mr.M.Gandhirajan
for R.20

R.3 to R.14, 16 to 18, 21 & 22 – given up

COMMON JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

Heard both sides.

2.Following the direction of this Court made in W.P(MD)No. 24081 of 2018 dated 31.01.2019, the Government of Tamil Nadu issued two Government Orders i.e., G.O(Ms)No.137 Public Works (2) Department dated 13.09.2019 and G.O(Ms)No.233 Public Works (C2) Department dated 06.12.2019 whereby as many as 3407 NMRs were directed to be paid wages equivalent to basic pay at the minimum of pay



scale applicable to the post of sweeper / scavenger with Dearness Allowance thereupon applicable from time to time.

3. Probably inspired by the said developments, W.P(MD)No.8092 of 2020 came to be filed by as many as 20 persons seeking the following relief:

“Prayer: Writ Petition is filed under Article 226 of the Constitution of India to Issue a Writ of Mandamus to direct the respondents 1 to 3 to permit the petitioners to continue as Nominal Muster Roll (NMR) and to pay minimum of pay scale applicable to the basic service as per order dated 31.01.2019 made in W.P(MD)No. 24081/2018 within a stipulated time may be fixed by this Court till the permanent absorption and consequently direct the 4th respondent to conduct a detailed enquiry in respect of persons who have producing bogus service certificates before the Public Works Department Screening Committee and secured employment in Public Works Department in G.O(Ms)No.137 Public Works (2) Department dated 13.09.2019 and G.O(Ms)No.233 Public Works (C2) Department dated 06.12.2019 and to take necessary action.”

4. The writ petition was disposed of the learned single Judge vide



order dated 01.10.2020 in the following terms:

“56. In view of the aforesaid discussions and the factual matrix of this case, this Court is inclined to pass the following orders in this writ petition:

(1) That out of the 20 petitioners, except Petitioner Nos.2, 15 and 19, others are not entitled to seek for any relief, as they have claimed in this writ petition. Therefore, insofar as the other 17 petitioners, the prayer sought for by the petitioners is rejected.

(2) In respect of the petitioner Nos.2, 15 and 19, based on the certificate issued by the very PWD Executive Engineers concerned certifying that, they have been engaged directly as NMR employees for more than five years and ten years respectively, their candidature can be considered by the respondents PWD for the continuous engagement.

(3) In future, as has been declared in the G.O.137 Public Works Department dated 13.09.2019, no NMR employees shall be engaged in the Public Works Department, except at the campus, sites indicated in Item No. (i) of Paragraph 6 of G.O.137. However, for any emergency or contingency, if the Government decides to engage any new NMR employees only for the specific purpose or for a limited period, even such engagement shall be strictly made only from among the candidates, whose names are sponsored by the concerned Employment Exchange and at no



circumstances, direct engagement shall be made by way of pick and choose method by the PWD officials.

(4) The Government shall come forward to issue necessary Government orders prescribing the age, educational qualifications and physical fitness for the purpose of engagement and method of engagement of NMR employees in future.

(5) In this context, the G.O., may indicate or prescribe the educational qualifications of only or the maximum of up to Higher Secondary, ie., +2 and as far as possible, such engagement shall only be made from among the candidates, who have the educational qualification only upto +2 and the highly qualified people, who are having professional degrees and other equal under graduate and post graduate degrees shall be avoided.”

Aggrieved by the denial of relief, 16 out of 20 writ petitioners have filed W.A(MD)No.1203 of 2020. Aggrieved by the direction to consider the cases of the writ petitioners 2, 15 and 19, the State has filed W.A(MD)No.40 of 2023.

5.It is relevant to note that the learned single Judge had only directed the State to consider the cases of writ petitioners 2, 15 and 10 based on the certificate issued by the concerned Executive Engineers of



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Public Works Department. Even though the State had filed the writ appeal during the pendency of these proceedings, the Principal Chief Engineer, vide letter dated 01.07.2021 informed them (Mariyappan, Nainar and Muniyandi) that it was not feasible to continue to engage them as NMRs. We are therefore of the view that the aforesaid three individuals will have to independently challenge the proceedings dated 01.07.2021. Since the State had already complied with the direction of this Court by considering their cases, nothing really survives for consideration in W.A(MD)No.40 of 2023. The said Writ Appeal is accordingly disposed of.

6.As regards the appellants in W.A(MD)No.1203 of 2020, the learned Judge had given a specific finding that they were only scheme employees and not NMRs. We posed a specific question to the learned counsel for the appellants as to whether the appellants were employed as NMRs on the date when they filed W.P(MD)No.8092 of 2020.

7.The learned counsel for the appellants are not able to satisfy us by placing any material to show that they were ever employed as NMRs. It is true that they were employed as scheme employees and not through



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any backdoor entry. In fact, they were subjected to written test and screening interview also. But that will not change the character of the employment. The Hon'ble Supreme Court in a recent decision reported in **2023 SCC OnLine 393 (Government of Tamil Nadu & another Vs Tamil Nadu Makkal Paniyalargal & Others)** had held that when a person is employed under a scheme, he necessarily has to be shown the door once the scheme itself comes to an end.

8.The burden to show that the appellants were in employment on the date when they filed the writ petition rests only on the appellants. This burden has not at all been discharged. The learned Judge had elaborately considered all the materials placed by either side and thereafter came to a firm conclusion that the appellants herein were not NMRs and that they were only scheme employees. This is a clear finding of fact and no ground has been made to interfere with the said factual finding.

9.In these circumstances, we are not in a position to grant any relief to the appellants in W.A(MD)No.1203 of 2020. At the same time, we are not in a position to brush aside the vehement submissions made



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by the learned counsel for the appellants that many persons were illegally appointed. Our attention was drawn to the instances of one Singaraj, Jeyamala and Manikandan. Materials were placed before us to show that these persons were terminated in the year 2014 on the ground that they had produced bogus certificate. But interestingly their names find inclusion in the aforementioned Government Order. Similarly, one Sudha Lakshmi, who is said to be a Dentist (BDS degree holder) and daughter of an Executive Engineer had also been included as NMR. The learned counsel asserts that as many as 50 such instances can be demonstrated. These are not matters that can be brushed under the carpet.

10.Mr.Arivalagan, the learned counsel would state that a person who was employed in the Indian Army on the date when the Government Order was issued was also included as an NMR. Likewise, the persons who had just attained majority were also included as NMRs. Such inclusions are patently illegal and cannot be ignored. In the very nature of things, vigilance enquiry is called for. If necessary, criminal prosecution will also have to be initiated.



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11.We direct the Principal Secretary to Government, Public Works

Department to take note of each and every allegation made in the writ proceedings and to take appropriate action as per law. Compliance report shall be submitted before the Additional Registrar General, Madurai Bench of Madras High Court within a period of three months in this regard. Since the persons against whom such observations have been made are not before us, our observations shall be construed only as tentative in nature. The first respondent shall issue notices to all the persons whose names have been indicted in the writ proceedings and seek explanations from them. If their inclusion in the Government Order is found to be illegal, they shall be terminated from service. Action shall also be taken against the persons responsible for such illegal inclusions.

12.W.A(MD)No.1203 of 2020 is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [R.K.M, J.]
07.01.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
MGA



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To

1. The Secretary to Government,
Public Works Department,
Secretariat,
Fort St. George,
Chennai – 600 009.
2. The Chief Engineer (General) /
The Engineer-in-Chief WRD,
Public Works Department,
Chepauk,
Chennai – 600 005.
3. The Chief Engineer,
Water Resources Department,
Public Works Department,
Chepauk,
Chennai – 600 005.
4. The Director of Vigilance and
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O/o. The Director of Vigilance and
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5. The Regional Provident Fund Commissioner,
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