

W.P.Nos.33567 to 33569 of 2012

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

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<b>Reserved on</b>	<b>22.06.2023</b>
<b>Pronounced on</b>	<b>30.08.2023</b>

CORAM:

**THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD**

W.P.Nos.33567 to 33569 of 2012  
and MP.Nos.2 to 2 of 2012

R. Suguna ... Petitioner in  
W.P.No.33567 of 2012

E. Ganesan ... Petitioner in  
W.P.No.33568 of 2012

V. Jayanthi ... Petitioner in  
W.P.No.33569 of 2012

**Vs.**

1. The State of Tamil Nadu  
Rep.by its  
Principal Secretary to Government  
Home (Courts-IV) Department  
Secretariat,  
Chennai 600 009.
2. The State of Tamil Nadu  
Rep.by its  
Secretary to Government  
Personnel and Administrative Reforms Department,  
Secretariat,  
Chennai 600 009.



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3. The Government Pleader,  
Office of the Government Pleader,  
High Court of Madras,  
Chennai 600 104.

... Respondents  
in all writ petitions

**COMMON PRAYER :** Writ Petitions are filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus to call for the records relating to the G.O.Ms.(3D) No.47 dated 19.09.2011 and to quash the same in so far as the petitioners are concerned and consequently direct the respondents to regularise the services of the petitioners from the date of appointment with consequential and other attendant benefits including arrears of salary, within the time frame to be fixed by this Court.

For Petitioners : Mr.G.Sankaran  
Senior counsel for  
M/s.E.Ranganayaki  
in all writ petitions

For Respondents : Mr.S.Ravikumar  
Special Government Pleader  
in all writ petitions

### **ORDER**

The petitioners have filed the above writ petitions praying for a Writ of Certiorarified Mandamus to call for the records relating to the G.O.Ms.(3D) No.47 dated 19.09.2011 and to quash the same in so far as the petitioners are

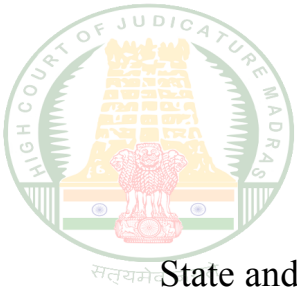


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concerned and consequently direct the respondents to regularise the services of the petitioners from the date of appointment with consequential and other attendant benefits including arrears of salary, within the time frame to be fixed by this Court.

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2. The learned senior counsel appearing for the petitioners submitted that the petitioners belong to Schedule Caste Community, Backward Class community respectively and were appointed as Junior Assistant Cum Typist, Junior Assistant and Typist respectively on contract basis with consolidated pay as per the proceedings of the 3<sup>rd</sup> respondent dated 01.12.2003, 01.02.2005 & 07.11.2005 respectively in pursuant to the orders passed by the State Government in G.O.(D) No.1020, Home (Court, IV) Department dated 09.09.2002. The State Government has formed Department of Government litigation for the Administration of the Office of the Advocate General, Government Pleader and Public Prosecutor as per the orders of the Government issued in G.O.Ms.No.1466, Home (Courts – IV) Department, dated 06.10.1997 and the Government has sanctioned the posts to the office as per the details given in the Annexure of the said order. Since no Service Rules/Adhoc Rules were framed for the staff of the Department, the General Rules of Tamil Nadu



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State and Subordinate Services were followed for recruitment of staff and other service conditions.

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3. The learned senior counsel further submitted that during the ban imposed by the State Government in the year 2001, there was acute shortage of staff in the office of the 3<sup>rd</sup> respondent, therefore due to the shortage of staff, the office of third respondent has faced serious crisis to carry out day to day work and hence the 3<sup>rd</sup> respondent has forwarded a proposal to the Government to release the ban orders in order to fill up the vacancies or to permit to make appointment on contract basis. In furtherance to the same, the Government has passed the orders in G.O.(D)No.1020, Home (Courts-IV) Department, dated 09.09.2002 permitting the 3<sup>rd</sup> respondent to fill up the five posts of Steno-Typist-cum-Junior Assistant or Typist-cum-Junior Assistant on consolidated pay of Rs.3,000/- per month on contract basis. Based on the orders passed by the Government in G.O.(D)No.1020, Home (Courts-IV) Department, dated 09.09.2002, the petitioners were appointed as Junior Assistant Cum Typist, Junior Assistant and Typist respectively as per the proceedings dated 01.12.2003. Since they were fully qualified for the post of Typist with reference to age and educational qualification. From the date of appointment, the



petitioners were continuously working in the office of the Government Pleader, High Court, Chennai 600 104 with utmost sincerity and honesty without giving any room for any complaint or whatsoever.

4. The learned senior counsel further submitted that there are more than 35% of the sanctioned posts in the office of the 3<sup>rd</sup> respondent and the same are lying vacant and the petitioners being appointed on contract basis strenuously working by carrying out all the works assigned to her in order to meet out the huge volume of work to be completed on day to day basis. Thereafter the petitioners made a representation along with other similarly placed persons for enhancement of pay, based on which the Government has also passed orders in G.O.Ms.No.1189, Home (Courts-IV) Department, dated 04.11.2008, enhancing the pay from Rs.3,000/- per month to Rs.5,000/- per month. In respect of the consolidated pay appointees employed in various Departments during the strike period of the year 2003, orders were passed by the State Government to appear for Special Qualifying Examination and accordingly the Government has brought all the consolidated pay employees into regular time scale of pay whereas the petitioners and other similarly placed persons who have been appointed during the ban period on the basis of



permission granted by the Government and working for more than nine years and seven years have not been considered for regularisation of services.

Therefore the petitioners made several representations along with others to the respondents seeking to regularise the service by bringing them into regular time scale of pay.

5. The learned senior counsel further submitted that in respect of similarly placed persons who have been appointed in the erstwhile Tamil Nadu Administration Tribunal as Typist, Junior Assistant, Steno-typist, the State Government passed orders in G.O.Ms.No.222, Personnel & Administrative Reforms (SAT) Department, dated 12.12.2008 bringing them into regular time scale of pay. Subsequently, in respect of another batch of persons employed as Office Assistant in the erstwhile Tamil Nadu Administrative Tribunal and subsequently absorbed in the office of the third respondent, based on the orders passed by the High Court, orders have been passed by the Government in G.O.(D).No.20 dated 29.03.2010 regularising their services in relaxation of relevant rules from the date of joining the post. However, their claims has not been considered in spite of repeated representations. The learned senior counsel further submitted that the third respondent has forwarded a proposal to the 1<sup>st</sup>



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respondent on 10.05.2010 to bring the petitioners into regular time scale of pay in relaxation of relevant rules. Subsequently, when further particulars have been called for from the office of the 1<sup>st</sup> respondent, the 3<sup>rd</sup> respondent has also sent further proceedings issued in Roc.No.719/A2/2010, dated 08.09.2010. Though the proposals have been sent to the 1<sup>st</sup> respondent, the same were not considered and no orders were passed. The petitioners and other similarly placed persons were constrained to file a writ petition before this Court in W.P.No.14553 of 2011 seeking for direction to direct the 1<sup>st</sup> respondent to regularise the services of the petitioner by considering the proposal forwarded by the third respondent dated 10.05.2010 and 08.09.2010 in the light of similar orders passed in G.O.(2D)No.20, Personnel and Administrative Reforms (SAT) Department, dated 29.03.2010 and G.O.Ms.No.222 Personnel and Administrative Reforms (SAT) Department dated 12.12.2008. This Court was pleased to pass final orders in the writ petition on 01.07.2011 by referring to the entire facts and circumstances directing the 1<sup>st</sup> respondent to consider the proposal dated 10.05.2010 and 08.09.2010 sent by the 3<sup>rd</sup> respondent and to pass orders on merits and in accordance with law taking note of the orders passed in G.O.(2D)No.20, Personnel and Administrative Reforms (SAT) Department, dated 29.03.2010 and G.O.Ms.No.222 Personnel and



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Administrative Reforms (SAT) Department, dated 12.12.2008 within a  
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6. The learned senior counsel further submitted that in pursuant to the orders passed in the writ petition, the first respondent issued orders in G.O.Ms.(3D) No.47 dated 19.09.2011 rejecting the claim of the petitioners stating that the order passed in G.O.(2D)No.20, Personnel and Administrative Reforms (SAT) Department, dated 29.03.2010 and G.O.Ms.No.222 Personnel and Administrative Reforms (SAT) Department dated 12.12.2008 are not similar to the case of the petitioners, since they were issued as per the directions of this Court based on the facts of that case. The Government Order issued rejecting the proposal merely by referring the above facts and circumstances without considering the fact that the petitioners are employed in the office of the 3<sup>rd</sup> respondent for several years and further the Government orders earlier passed in respect of the similarly placed persons. That apart, there are order passed by the State Government to bring even the NMR's daily wage employees into regular establishment though they were appointed without following the procedure and in the absence of sanctioned posts whereas the petitioners have been appointed on the permission granted as per the orders passed by the State





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Government in (GO.D.)No.1020, Home (CTS, IV) Department, dated 09.02.2002 and they are working continuously for several years. Subsequent to the order passed in G.O.Ms.(3D) No.47 dated 19.09.2011 the petitioners have made representation to the 1<sup>st</sup> respondent seeking to review the order and to regularise their services by taking into consideration of the order passed in respect of similarly placed persons and further considering the length of services rendered by her. But there was no order passed by the 1<sup>st</sup> respondent. Hence the petitioners have come forward with the present writ petition.

7. Counter affidavit dated 20.05.2021 has been filed on behalf of the 1<sup>st</sup> and 2<sup>nd</sup> respondents and it is relevant to extract paragraph No.3 of the counter affidavit and the same is extracted as below:-

**“3. It is submitted that during the year 2001, the Government of Tamil Nadu had imposed a ban for the fresh recruitment and due to the ban imposed, there was an acute shortage of staff in the category of Junior Assistant, Typist and Steno-Typist in the office of the Government Pleader, High Court, Chennai. Therefore, due to the voluminous work load relating to the Court work, a proposal was received from the Registrar General, High Court of Madras to the Government to relax the ban order so as to enable him to fill up the vacant position in the category of Steno-Typist, Typist, Junior Assistant**



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**and Office Assistant or to permit him to make appointment on contract basis. Based on the above proposal, the Government in G.O.(D).No.1020, Home (Courts-IV) Department, dated 09.09.2002 have issued orders permitting the Government Pleader, High Court, Chennai to fill up the five post of Steno-Typist cum Junior Assistant or Typist cum Junior Assistant on a consolidated pay of Rs.3,000/- per month on contract basis subject to the condition that their contract will be terminated at any time without assigning any reason. Based on the orders issued in G.O.(D).No.1020, Home (Courts-IV) Department, dated 09.09.2002, the Government Pleader, High Court of Madras issued orders appointing Selvi.R.Suguna, Tmt.V.Jeyanthi and Tr.E.Ganesan were appointed as Typists and Junior Assistant on 01.12.2003, 01.02.2005 and 07.11.2005 respectively in the office of the Government Pleader, High Court, Chennai. In the appointment order issued by the Government Pleader, it has been specifically mentioned that they have no claim on regular appointment and may be ousted without any prior notice.**

8. The learned Special Government Pleader appearing for the respondents submitted that various consolidated pay appointees, who were appointed during the strike period of the year 2003, orders were passed by the State Government to appear for the Special Qualifying Test and subsequently brought under the regular time scale of pay, it is submitted that the above case will not apply to the writ petitioners herein since the above consolidated pay



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appointees were all registered in the Employment Exchange and were sponsored by the Employment Exchange properly. Upon such sponsorship only, they were selected and appointed on consolidated pay and hence they were selected and appointed on consolidated pay and hence they were permitted to appear for the Special Qualifying Test in 2009 conducted by the Tamil Nadu Public Service Commission. In the case of writ petitioners, they were not sponsored by the Employment Exchange and no rule of reservation was followed and no notification was made in the public domain inviting applications from the general public candidates for the appointment of temporary posts of Junior Assistant cum Typists. Hence they cannot be equated on par with the consolidated pay appointees appointed during the strike period of the year 2003.

9. The learned Special Government Pleader further submitted that the condition and circumstances of the appointees in the erstwhile Tamil Nadu Administrative Tribunal will not apply to the writ petitioners, since they were all sponsored by the Employment Exchange/Paper notification and the writ petitioners herein are neither sponsored through employment exchange nor called for by any paper notification.



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10. The learned Special Government Pleader further submitted that at the time of appointment, it has been specifically stated that her appointment is purely temporary in nature and that they could be terminated at any point of time without any reason. Having understood the nature of the employment, they have worked on consolidated pay and now they cannot claim right over the regularisation or time scale benefits subsequently since the above adhoc appointment was made only to cope up the work load due to ban in recruitment ordered in the year 2001. Subsequently, the ban on recruitment was relaxed in the year 2006 and the Tamil Nadu Public Service Commission was making recruitments and appointments to various Departments. Moreover, many Junior Assistant and Typist were selected and appointed to the Office of the Government Pleader, High Court, Chennai/Madurai since the year 2006. Thus when eligible candidate through Tamil Nadu Public Service Commission are readily available, the contract employees are to be ousted immediately. The impugned Government Order was passed only after considering the employment method of the writ petitioner and also considering the orders passed in G.O.(2D)No.20 Personnel and Administrative Reforms (SAT) Department, dated 29.03.2010 and G.O.Ms.No.222, Personnel and

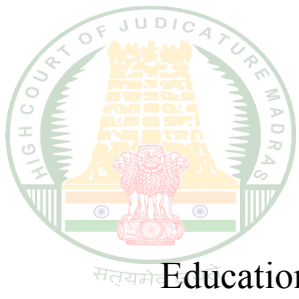


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Administrative Reforms (SAT) Department, dated 12.12.2008 only. The above mentioned orders will not apply to the petitioner. The post of Junior Assistant, Typist and Steno-Typist comes under the purview of the Tamil Nadu Public Service Commission and any recruitment to the above mentioned post could be made only through the Tamil Nadu Public Service Commission and if any recruitment made by any other method, the same has to be concurred by the Tamil Nadu Public Service Commission.

11. The learned Special Government Pleader further submitted that various judgments of the Hon'ble Supreme Court of India as well as this Court has reiterated that direction for regularisation, absorption or permanent continuance could not be issued unless the employees claim their regularisation has been appointed in pursuance of their regular recruitment in accordance of relevant rules in open competitive process against the sanctioned vacant post. The Hon'ble Supreme Court of India and this Court have also repeatedly upheld that direction for regularisation of service of an employee could not be given in those cases which would be violation of the constitutional provisions. It is submitted that the Hon'ble Supreme Court of India in its judgment dated 21.02.2014 in C.A.Nos.2726-2729 of 2014, Secretary to Government, School



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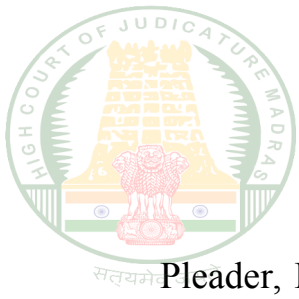
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Education Department, Chennai Vs. R.Govindaswamy and others has followed the judgment of the Supreme Court in State of Rajasthan Vs. Daya Lal and others reported in AIR 2011 SC 1193 wherein it was observed as follows:-

*Mere continuation of service by a temporary or adhoc or daily wage employee, under cover of some interim orders of the Court, would not confer upon him any right to be absorbed into service, as such service would be 'litigious employment'. Even temporary, adhoc or daily wages service for a long number of years let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right. Hence in view of the judgments of the Hon'ble Supreme Court of India and this Court reported in various judgments the prayer of the writ petitioner in the present case is liable to be dismissed as not maintainable.”.*

12. Heard both side and perused the materials available on record.

13. In the instant case, the Government has issued order in G.O.(D).No.1020, Home (Courts-IV) Department, dated 09.09.2002 permitting the third respondent to fill up the five posts of Steno-Typist cum Junior Assistant or Typist cum Junior Assistant and the petitioner was appointed as Typist as per the proceedings dated 01.12.2003 in the office of the Government



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Pleader, High Court, Chennai on consolidated pay of Rs.3,000/- per month on contract basis and in the appointment order it was specifically mentioned that they have no claim on regular appointment and may be ousted without any prior notice. Contract appointees do not confer any right on regular appointment and not eligible for any leave. The consolidated employee who were working in erstwhile Tamil Nadu Administrative Tribunal were all regularised. In respect of the consolidated pay appointees employed in various departments during the strike period of the year 2003, orders were passed by the State Government to appear for Special Qualifying Examination and accordingly the Government has brought all the consolidated pay employees into regular time scale of pay whereas the petitioners and other similarly placed persons who have been appointed during the ban period on the basis of permission granted by the Government and working for more than nine years and seven years have not been considered for regularisation of services. But the petitioners who were working for more than 9 years and even during the ban period on the basis of permission granted by the Government and working for more than nine years and seven years have not been considered for regularisation of services. Similarly placed persons who have been appointed in the erstwhile Tamil Nadu Administrative Tribunal as Typist, Junior Assistant, Steno-typist, the State



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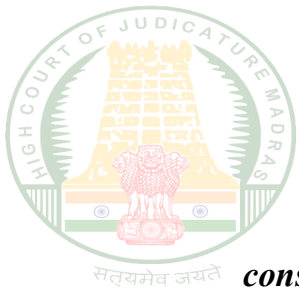
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Government passed orders in G.O.Ms.No.222, Personnel & Administrative Reforms (SAT) Department, dated 12.12.2008 bringing them into regular time scale of pay. Subsequently in respect of another batch of persons employed as Office Assistant in the erstwhile Tamil Nadu Administrative Tribunal and subsequently absorbed in the office of the third respondent based on the orders passed by the High Court orders have been passed by the Government in G.O.(D).No.20 dated 29.03.2010 regularising their services in relaxation of relevant rules from the date of joining the post. Since the petitioners were working for several years, the third respondent forwarded the proposal dated 10.05.2010 to the first respondent for regularisation of the service of staff appointed on consolidated pay and appointment in regular scale of pay and the relevant paragraphs of the proposal dated 10.05.2010 are extracted hereunder:-

*Around 40 posts of the 118 sanctioned posts in Government Pleader's Office, Chennai are currently vacant which implies that even now 35% of the sanctioned posts are vacant and the role of employees on consolidated pay and their value to the establishment may not be undermined and their demand for regularisation should be considered mercifully and the demand for regularisation of their services should be upheld by the Government as a Special case.*

*I request the Government to relax necessary rule of recruiting through Employment Exchange as a Special case for the*





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*consolidated pay employees of Office of the Government Pleader which precluded their appearance in Special Qualifying Examination conducted by TNPSC and also permit the Office to retain them in regular scales of pay considering their valuable service over the past several years. The nature of work done by them and the strenuous assignments they have been carrying out over the years needs exceptional consideration and their retention in regular establishment is of overriding urgency and this proposal has to be considered positively on meritorious and sympathetic grounds by the Government. Such relaxation as a special case have been done previously by the Government and a copy of G.O on one such case is also enclosed for reference.*

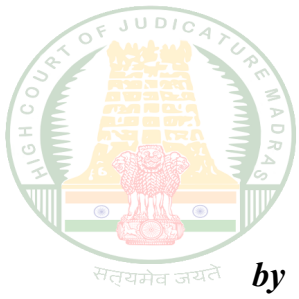
14. The third respondent/Government Pleader requested the first respondent to relax necessary rules in this regard to accommodate three consolidated pay employees of Office of the Government Pleader, High Court, Chennai in regular establishment in the post of Typist/Junior Assistant in regular scale of pay and issue appropriate order. The petitioners were initially appointed on a consolidated pay of Rs.3,000/- and the same was subsequently enhanced to Rs.5,000/- per month. The petitioners were appointed on 01.12.2003, 01.02.2005 and 07.11.2005 respectively as a Typists and Junior Assistant respectively and still they are working in view of the interim injunction dated 13.12.2012 passed by this Court at the time of admission and



सत्यमेव जयते at present the age of the petitioners are 49, 45 and 53 years respectively. The 1<sup>st</sup> WEB COPY respondent vide G.O.(3D)No.47 dated 19.09.2011 rejected the proposal of the 3<sup>rd</sup> respondent and the relevant paragraphs are extracted hereunder:-

*“2. While the proposals of the Government Pleader, High Court, Chennai is under examination, Tmt.R.Suguna, Thiru.E.Ganesan and Tmt.V.Jayanthi have filed a writ petition No.14553/2011 and MP.No.1/2011 before the High Court, Madras requesting the High Court, Madras to give directions to the respondents to pass orders on the proposal of the Government Pleader, High Court, Chennai on the regularisation of their services. The High Court of Madras in its order dated 01.07.2011 has directed the respondents to consider the proposal dated 10.05.2010 and 08.09.2010 sent by the third respondent and pass orders on merits and in accordance with law, taking note of the orders passed in G.O.(2D).No.20, P&A.R. Department dated 29.03.2010 and in G.O.Ms.No.222, P&A.R.(SAT) Department, dated 12.12.2008 within a period of eight weeks from the date of receipt of a copy of the order.*

*3. The Government have examined the proposal of the Government Pleader, High Court, Madras dated 10.05.2010 and 08.09.2010 as directed by the Hon'ble High Court of Madras in its order dated 01.07.2011 in Writ Petition No.14553 of 2011. Orders issued in G.O.Ms.No.20, P&AR (SAT) Department, dated 29.03.2010 is not similar to this case, since the orders were issued as per the directions of High Court, Madras based on the facts of that case. The individuals Tmt.R.Suguna, Typist, Thiru.R.Ganesan, Junior Assistant, Tmt. V.Jayanthi, Typist were appointed on consolidated pay and made*



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*by outsourcing and not through Employment Exchange and the orders issued in the said Government Order cannot be applicable to the staff who were appointed on consolidated pay and the appointments were made by outsourcing. Hence the Government have decided to reject the proposal of the Government Pleader, High Court, Madras for regularisation of services of the above three individuals.*

*4. Accordingly, the proposal of the Government Pleader, High Court, Chennai dated 10.05.2010 and 08.09.2010 to regularise the services of Tmt.R.Suguna, Typist, Thiru.E.Ganesan, Junior Assistant and Tmt.V.Jayanthi, Typist be rejected.*

15. It is pertinent to note that the appointment of the petitioners were made only subsequent to the order passed by the first respondent vide G.O.Ms.No.1020, Home (Courts-IV) Department dated 09.09.2002 by permitting the Government Pleader, High Court, Chennai to fill up 5 posts of Steno-typist cum Junior Assistant or Typist cum Junior Assistant on consolidated pay of Rs.3,000/- p.m. on contract basis subject to the condition that the contract will be terminated at any point of time without assigning any reason. Remuneration was enhanced from Rs.3,000/- per month to Rs.5,000/- per month vide G.O.Ms.No.1189 Home (Courts-IV) Department dated 04.11.2008. Even though the first respondent has granted permission to fill up five posts, the third respondent Government Pleader has appointed only three



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persons and the petitioners were appointed only on 01.12.2003, 01.02.2005 & 07.11.2005 respectively. Out of three writ petitioners, one petitioner namely V.Jayanthi in W.P.No.33569 of 2012 superannuated after attaining the age of 60 years. This Court while passing the order in W.P.No.14553 of 2011 dated 01.07.2011 directed the first respondent to consider the proposals dated 10.05.2010 and 08.09.2010 sent by the third respondent and pass orders on merits and in accordance with law, taking note of the order passed in G.O.(2D) No.20, Personnel and Administrative Reforms (SAT) Department and G.O.Ms.No.222, Personnel and Administrative Reforms (SAT) Department dated 12.12.2008. Further the rejection order dated 19.09.2011 was issued by the first respondent rejecting the proposal signed by the third respondent dated 10.05.2010 and 08.09.2010. The petitioners are continuously working for the last 20 years from the date of their appointment and they have got only 11, 13 and 5 years respectively to retire and at this juncture sending the petitioners out of employment will severely affect their livelihood and will be put to face several hardship and difficult in life. The impugned order is still in operation for the last 11 years and in view of this order all the three persons were continuously working in the 3<sup>rd</sup> respondent Government Pleader office, High Court, Chennai. The learned senior counsel appearing for the petitioners has



also relied upon the order passed by this Court in the case of *Marasamy Vs*  
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*The Secretary to Government and others* in W.P.Nos.17698 of 2019 etc.,  
batch cases and the relevant paragraphs are extracted hereunder:-

*“25. Moreover, engaging the petitioners on contract basis for an indefinite period of time continuously and then repudiate their claim for regularisation is a reflection of barren mindset on the part of the jaded administration. The fall out of such mindset invariably result in putting up stereo-type opposition to the grant of relief of regularisation to the poor employees, who eke out their measly livelihood, forced to live on the edge for years together in not knowing their future, has in store for them. To put the employment of scores of employees for years together on the tenterhooks is opposed to the constitutional values namely fair play, equity, good conscience and justice. The Government being a model employer, cannot be allowed to justify its exploitation of the despairing employees, on the ground their employment is irregular or temporary, adhoc etc. Such negative plea is not particularly available after employing them continuously for longer duration. If such plea were to be entertained, it would be a tacit approval of the exploitative nature of employment resorted to by the Government for decades under one pretext or the other.*

*26. At the end of the day, whatever be the reasons, the fact of the matter is that these petitioners have been continuously employed for more than a decade and by that very fact, the claim of the petitioners is to be considered favourably, without any reservation from the respondents. No doubt that as stated above, the*



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***Government had been benevolent in the past by regularising scores of NMR, adhoc employees though its policy decision ameliorating the working conditions of its employees. But the Government must ensure that such affirmative policy action ought to permeate to all levels of employment and administration, so that some section of despairing employees agonising wait for their employment security attains its fruition forthwith.***

***27. Besides the ratio laid down in all the decisions as stated supra and the directions given therein squarely apply to the factual matrix of this case and denial of the claim of the petitioners would only result in hostile discrimination, thus, would amount to violative of Articles 14 and 16 of the Constitution of India.***

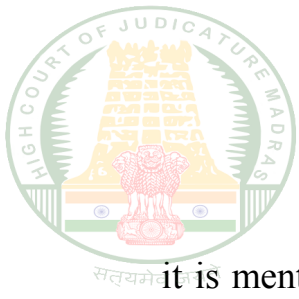
16. The main contention of the first respondent/Government Pleader is that the petitioners were not registered in the employment exchange and not sponsored by the employment exchange properly. The other appointees working on consolidated pay in other department during the strike period of the year 2003, orders were passed by the State Government to appear for Special Qualifying Examination. In the case of writ petitioners, they were not sponsored by the Employment Exchange and no rule of reservation was followed and no notification was made in the public domain inviting applications from the general public candidates for the appointment of temporary posts of Junior Assistant cum Typists. Hence they cannot be equated



on par with the consolidated pay appointees appointed during the strike period

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of the year 2003. It is an admitted fact that there was a ban on fresh recruitment from the year 2001 – 2006 and the petitioners were appointed in the year 2003 and 2005 during ban period, but the appointment was done only after obtaining permission from the first respondent. While granting permission, the first respondent in G.O.Ms.No.1020, Home (Courts-IV) Department dated 09.09.2002, nowhere it is mentioned that paper publication or notification or advertisement should be effected for appointment of Steno-Typist-cum-Junior Assistant or Typist-cum-Junior Assistant in the third respondent/Government Pleader Office, High Court, Chennai. It has only permitted the Government Pleader to fill up five posts, out of which the third respondent has appointed only three persons who were fully in eligible criteria i.e, in regard to age, educational qualification and experience and it is not fair and proper on the part of the first respondent to reject the proposal dated 10.05.2010 and further proposal dated 08.09.2010 sent by the third respondent for regularisation of the service of the petitioners. The main contention is that the petitioners were not registered with the employment exchange or sponsored by the District Employment Exchange and the same cannot be sustained for the reason that in G.O.(D).No.1020, Home (Courts-IV) Department, dated 09.09.2002, nowhere



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it is mentioned that the candidates must register with the District Employment Exchange or sponsored by the District Employment exchange. The petitioners were serving with sincerity and with utmost dedication in the office of the third respondent from the year 2003 & 2005 respectively with unblemished services and due to the existing vacancy, the third respondent has sent a proposal to the first respondent for regularisation of the petitioners. One person V.Jayanthi, writ petitioner in W.P.No.33569 of 2012 aged 60 years has superannuated and the remaining two writ petitioners are working till date in the third respondent office and they were not sponsored by the employment exchange and no rule of reservation was followed and no notification was made in the public domain inviting applications from the general public candidates for the appointment of temporary posts of Junior Assistant cum Typists and the same is not sustainable.

17. In view of the factual matrix of the case, this Court is of the considered view that the impugned order dated 19.09.2011 passed by the first respondent in G.O.(3D)No.47 Home (Courts-IV) Department by rejecting the proposal sent by the third respondent is liable to be quashed and the same is hereby quashed.





W.P.Nos.33567 to 33569 of 2012

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18. The appointment of the petitioners are neither illegal, contrary to law or through back door entry and it was only after obtaining permission from the first respondent they have been appointed on consolidated pay of Rs.3,000/- by the third respondent.

19. In the result the writ petitions are allowed and the respondents are directed to regularise the services of the petitioners from the date of appointment with consequential and other attendant benefits including arrears of salary within a period of six weeks from the date of receipt of a copy of this order. No costs.

30.08.2023

Internet : Yes  
Index : Yes/No  
Speaking order/Non-speaking order  
dpq



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**J. SATHYA NARAYANA PRASAD, J.**

dpq

To

1. The State of Tamil Nadu  
Rep.by its  
Principal Secretary to Government  
Home (Courts-IV) Department  
Secretariat,  
Chennai 600 009.
2. The State of Tamil Nadu  
Rep.by its  
Secretary to Government  
Personnel and Administrative Reforms Department,  
Secretariat,  
Chennai 600 009.
3. The Government Pleader,  
Office of the Government Pleader,  
High Court of Madras,  
Chennai 600 104.

W.P.Nos.33567 to 33569 of 2012

30.08.2023