

(2010) 11 MAD CK 0339

Madras High Court

Case No: Writ Petition No"s. 3571, 3572 and 5975 of 2009 and M.P. No"s. 1, 1, 2 and 2 of 2009

K. Selvaraju

APPELLANT

Vs

The Government of Tamil Nadu

P.R. Umayal Vs The

Government of Tamil Nadu

RESPONDENT

Date of Decision: Nov. 25, 2010

Acts Referred:

- Constitution of India, 1950 - Article 23
- Industrial Disputes Act, 1947 - Section 2, 25F

Hon'ble Judges: B. Rajendran, J

Bench: Single Bench

Advocate: N. Subramaniam, for the Appellant; R. Murali, Government Advocate, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

B. Rajendran, J.

The Petitioners in WP Nos. 3571 and 5975 of 2009 are one and the same. The grievance of the Petitioner in the other writ petition namely WP No. 3572 of 2009 are also identical with that of the other two writ petitions. The issue involved in the writ petitions are also common, therefore, by consent of counsel for both sides, the writ petitions are taken up for final disposal.

2. The Petitioner in WP No. 3571 of 2009 and the Petitioner in WP No. 3572 of 2009 were engaged as Field Officers under the control of the third Respondent. The Petitioner in WP No. 3571 of 2009 namely Selvaraju was appointed as a Field Officer on 21.04.1986 and the Petitioner in WP No. 3572 of 2009 namely Umayal was appointed as such on 13.06.1985 on a consolidated pay of Rs. 1,000/-per month. WP Nos. 3571 and 3572 of 2009 were filed for a Mandamus to direct the Respondents to

bring the Petitioners into regular establishment with time scale of pay on par with that of the Deputy Block Development Officer with effect from the date of their initial initial appointment as Field Officer, with all allowances and benefits along with the consequential arrears of pay and other allowances, benefits etc., within a time frame. Pending the above writ petitions, the Petitioner in WP No. 3571 of 2009 namely Selvaraj was issued with a memo dated 09.02.2009 by the District Collector, Dharmapuri calling upon him to show cause as to why his services should not be terminated. The said Memo dated 09.02.2009 is challenged in WP No. 5975 of 2009.

3. The Petitioners would contend that the first Respondent has issued G.O. Ms. No. 284, Rural Development Department dated 15.04.1985 sanctioning two posts of Supervisors each for Erode and Dharmapuri District to supervise the implementation of the project relating to Development of Women and Children in the rural areas scheme financed by UNICEF, with the following conditions:

- (i) The supervisors shall be designated as Field Officers in view of multi faced activities to the post
- (ii) They will be paid a consolidated monthly salary of Rs. 1,000/-on contract basis
- (iii) The appointment is for a period of one year from the date of joining as Supervisor
- (iv) The officers are required to travel for a minimum of 20 days in a months to blocks and villages assigned to them for supervision. They may attend to desk works during the rest of the days.
- (v) Their immediate superior will be the Assistant Project Officer (Women) but they will act as liason officers between District Rural Development Agency. Block Officials Extension Officers, Gramasevikas and group members.
- (vi) The field officers may be preferably post graduates or graduates in Home science.

4. According to the Petitioners, the Petitioner in WP No. 3571 of 2009 Selvaraj has passed M.A. Degree (Rural Services) in first class awarded by Gandhigram University and he belonged to a Schedule Caste. The Petitioner in WP No. 3572 of 2009 Umayal has completed her Degree in Home Science. Both the Petitioners were sponsored to the post of Field Officer through employment exchange and by proceedings dated 08.04.1986 and 10.05.1985 respectively, both the Petitioners were appointed to the said post. The Petitioners joined duty on 13.06.1985 and 21.04.1986 respectively.

5. According to the Petitioners, even though they were appointed on a consolidated pay of Rs. 1,000/-per month with a condition that their engagement will be for a period of one year, they were allowed to continued even after one year and the salaries were paid to them by UNICEF till 31.12.1988. Thereafter, the Petitioners were retained in service and brought under the regular programme of Integrated

Rural Development Programme, shortly known as IRDP from 01.01.1989 as per G.O. Ms. No. 323, Rural Development Department dated 12.04.1990 and sanction was also given for continuance of the above posts held by the Petitioners till 28.02.1991. Subsequently, sanction was accorded for continuance of the said posts every year and the Petitioners were also continuing as Field Officers under the regular scheme of IRDP. However, the services of the Petitioners were not brought under regular time scale of pay and they continued in service for a consolidated salary of Rs. 1,000/-per month. According to the Petitioners, even though they were brought under the regular establishment in the year 1990 itself, their services were not regularised and they were forced to work for a consolidated pay. Therefore, they have made a representation to the first Respondent on 30.10.1996 requesting to bring them under regular establishment. Subsequently, as per G.O. Ms. No. 878 dated 15.05.1981 wherein it was stated that proposals shall be sent to the Government to bring the contingent employees who have completed 10 years into regular service, the Project Officer of IRDP sent a proposal by his letter dated 28.01.1997 recommending to bring the Petitioners into regular establishment with time scale of pay and the second Respondent in turn recommended and forwarded it to the first Respondent on 24.07.1997. In spite of the same, no order has been passed, whereas, in a similar case of Technician (Bio Gas) sanctioned in the year 1982, adhoc rules were framed and they were brought under regular establishment with time scale of pay in G.O. Ms. No. 853 dated 16.10.1990.

6. The Petitioners would contend that again on 30.11.1997, the third sent a further recommendation to the second Respondent to regularise the service of the Petitioners relying on G.O. Ms. No. 87, Rural Development Department dated 06.05.1996, wherein orders were issued to regularise the school conductresses who have completed 10 years as on 01.01.1989 or thereafter. On receipt of such proposal, the Government sought certain clarifications from the Respondents 2 and 3 as to the proof for permission of the Government for sanction of the Field Officers on consolidated pay which was also clarified by the third Respondent in his letter dated 19.08.1998. In and by the said clarification letter dated 19.08.1998, it was pointed out that all the officers who were paid less than the salary received by the Petitioners were sanctioned with time scale of pay but the Petitioners alone were deprived of such benefit. Again, by letter dated 12.06.2001, the Project Officer, District Rural Development Agency, Dharmapuri pointed out the necessity to bring the Petitioners into regular establishment with time scale of pay. It was also pointed out that service registers were also opened in the name of the Petitioners. The first Respondent in turn, by letter dated 17.06.2002 permitted the continuance of the post in the present position even after abolition of the District Development Corporation, without forwarding the proposal.

7. The Petitioners would contend that as there was a ban order for some time, after lifting of the ban, they sought for regularisation of their service and in spite of the same, no order has been passed by the Respondents. Subsequently, by order dated

30.04.2008 of the third Respondent, the services of the Petitioners were placed under the Ponvizha Grama Suya Velai Vaippu Thittam on deputation basis in the office of the Project Officer, Women Development, Dharmapuri with effect from 30.04.2008 and accordingly the Petitioners were working under the said scheme till date. In spite of numerous representations sent by the Petitioners and the recommendations forwarded by the competent authorities, the services of the Petitioners were not brought under time scale of pay and they continued to receive Rs. 1,000/-per month on consolidated pay for the past 23 years. Under those circumstances, WP Nos. 3571 and 3572 of 2009 came to be filed.

8. WP No. 5975 of 2009 was filed by K. Selvaraj challenging the memo dated 09.02.2009. In and by the said memo, the Petitioner was called upon to show cause as to why his services should not be terminated by pointing out certain alleged deficiencies in his service. Apprehending that the Petitioner may be terminated from his service, the present writ petition has been filed. Pending writ petition namely WP No. 5975 of 2009, this Court also granted interim injunction restraining the Respondents from terminating the service of the Petitioner.

9. The third Respondent, District Collector, Dharmapuri District, has filed a reply affidavit contending that the Petitioners initial appointment was to implement the projects undertaken by UNICEF and thereafter they were absorbed in the implementation of projects undertaken by IRDP. The fact that after abolition of the IRDP scheme, the Petitioners were continued to be engaged were admitted. But the third Respondent would only contend that the Petitioners were allowed to continue without any specific order of the third Respondent or by the Government. As per G.O. Ms. No. 54, Rural Development dated 28.03.2008 and on the implementation of SGSY scheme, which was entrusted to the Project Officers, the Petitioners were still working and getting pay from the DRDA Administrative funds. But in the counter, the third Respondent would contend that the Petitioners performance was not good and therefore, a notice was issued to the Petitioner in WP No. 3571 of 2009. Challenging the same, the Petitioner has filed WP No. 5975 of 2009 before this Court and obtained an interim injunction. The third Respondent would further contend that the contract employment of the Petitioners cannot be brought into regular establishment and that the appointments are irregular. When there is no post of Field Officers in the staff pattern sanctioned by the Government of India, it is not necessary to bring the Petitioners into regular establishment. Therefore, the third Respondent would contend that the Petitioners engagement was on contract basis from the date of their initial engagement under IRDP scheme, which was subsequently extended and the Petitioners were also allowed to work only on contract basis without any order. Even though the third Respondent has recommended and sent proposals that the Petitioners may be brought under regular time scale of pay considering their long number of years of service, but without any orders from the Government, they cannot, as a matter of right, seek for a direction to bring them on time scale of pay or regular establishment. Only on

humanitarian grounds, the Petitioners were absorbed in Socio Economic Development Society, but the Petitioners have no right to claim for permanent absorption. The third Respondent also contend that the Petitioners were engaged on contract basis for attending additional work of DWCRA, IRDP and SGSY Schemes formulated by the Government along with the staff sanctioned for such projects and getting honorarium from the District Rural Development Agency Fund. Further, G.O. Ms. No. 22, P & AR Department dated 28.02.2006 is not applicable to the Petitioners and prayed for dismissal of the writ petitions.

10. Heard the counsel for both sides and perused the materials placed. It is now contended by the Petitioners that they have been appointed and joined duty on 13.06.1985 and 21.04.1986 respectively, originally under UNICEF on a consolidated pay of Rs. 1,000/-per month as Field Officers. The post of Field Officer require extensive travel for minimum of 20 days in a month to blocks and villages for supervision and they have to attend the desk work during the rest of the days. According to the Petitioners, they were paid actual bus fair plus conveyance of Rs. 15/-per day, for the days spent on District Head Quarters. The Petitioners were also required to maintain the programme for every month, tour dairy indicating the work done and the problems faced and progress reports detailing the achievement. Their work also demands sending of monthly progress report to UNICEF. For appointment to the post of Field Officer, the basic requirement by then was a candidate who possess a Pos graduation, preferably a post graduate in Home Science. Though the appointment of the Petitioners were stated to be purely temporary, the Petitioners have been working continuously as Field Officer even today. In fact, in G.O. Ms. No. 323 dated 12.04.1990, two posts of Field Officers on consolidated salary of Rs. 1,000/-per month on contract basis was sanctioned. Pursuant to that, the salary from 01.01.1989 onwards were directed to be made by the IRDP funds earmarked for administrative infrastructure maintained by the respective District Rural Development Agency by absorbing the posts in the regular programme on IRDP. The Government also accorded sanction for continuance of the two posts of Field Officers, each in Dharmapuri and Periyar District upto 28.02.1991. Further, in the very same Government Order, the action of the Project officers of the IRDP in having continued the posts of Field Officer beyond one year period till 12.04.1990 was ratified by the Government.

11. It is seen from the records that the Director of Rural Development Department, Chennai, by letter dated 24.07.1997 addressed to the first Respondent/Government recommended to bring the Petitioners under time scale of pay wherein it was specifically mentioned as follows:

Further, the Project Officer has stated that the above 2 Field Officers had completed 10 years of service in the same field with consolidated pay, and had completed 40 years of age, and they may have no opportunity for them to enter into Government service. Considering their 10 years of good service, the Project Officer has

recommended that they may be brought into regular establishment with time scale of pay.

12. This letter of the Director of Rural Development was followed by yet another recommendation from the Project Officer and Managing Director, Dharmapuri District Development Corporation Limited, Dharmapuri dated 30.07.1997 addressed to the Director of Rural Development, wherein it was stated as under:

In this connection, it is submitted that most of the Nominal Muster Roll employees working in the Public Works Department for more than ten years are taken into regular employment and relaxing relevant rules of the general Rules for the Tamil nadu State and Subordinate Service Rules in their favour to bring them into regular establishment. Similarly, Government also agreed to bring the Panchayat Union School Conductresses who completed 10 years or more of continuous service as on 01.04.1989 or after into regular establishment in their order Ms. No. 87, RD Dept. dt. 06.05.1996.

In the instant case, Thiru. K. Selvarasu and Tmt. P.R. Umayal, Field Officers have already crossed 40 years of age and they have lost the opportunity of obtaining any regular employment at this age elsewhere. Even considering the current standard of living it would be more difficult to subsist on the meagre amount of Rs. 1,000/-pm. It may also not be justifiable to allow them to continue on this same amount for the past 10 years when their co-employees in the Dharmapuri District Development Corporation are getting periodical increase in their emoluments as it would create frustration and heart-burn amount those two employees. As one of them is graduate and the other is a post graduate, it may be proper to bring them on a suitable regular establishment on a time scale of pay.

13. Subsequent to this recommendation, the Secretary to Government, by proceedings dated 01.07.1998 stated that since there was no proof to say that the consolidated post was permitted by the Government and also that these posts filled up, are irregularly created in Dharmapuri District, they are liable for termination or abandonment. Therefore, a clarification was sought for by the Government. Pursuant to the same, the District Collector of Dharmapuri, who is also the Chairman and Managing Director of Dharmapuri District Development Corporation Limited, addressed a letter dated 19.08.1998 to the Secretary to Government and to the Director of Rural Development by recommending that the Petitioners, who are Field Officers, are to be brought under regular scale of pay as they have been working for more than 10 years on a consolidated pay of Rs. 1,000/-per month and it will bring dignity to their posts and effectively supervise the works of the above block functionaries and thereby make the programme a success. The District Collector also pointed out that the Petitioners were given certificates of appreciation for the work done by them. After receipt of such recommendation by the District Collector, no orders were passed.

14. In this connection, it is to be pointed out that the District Collector, Erode in his proceedings dated 27.06.2000 made a detailed examination of the appointment, continuance and the work done by the Field Officers under the DWCRA programme namely Mr. P. Balasubramaniam and he has recommended for regularisation of his service on par with the Deputy Block Development Officer stating that the individual has put in 13 years of service without any break in service and also crossed the age of 40 years. Similarly, in the instant case, the Petitioners have put in more than 23 years now and they are also over-aged, but till date, no orders has been passed.

15. Once again, by proceedings dated 12.06.2001, the Project Officer, District Rural Development Agency, Dharmapuri recommended to bring the Petitioners into time scale of pay. This was followed by a reminder dated 28.03.2002 seeking to approve the regularisation of the Petitioners, for which there was no reply. Subsequently, on 28.02.2003, the Additional District Collector, Dharmapuri sent a letter stating that the Petitioners have been working for more than 16 years and they have also crossed the age of 35 years and cannot get any other government job. Further, the consolidated pay offered to them is very less and therefore requested for approval to bring them on time scale of pay. Even for this, for the next three years, there was no reply or orders forthcoming from the Government.

16. Once again, by proceedings dated 22.06.2006 emanated from the office of the Director of Rural Development Agency, reference was made to the earlier recommendations. It was stated that taking into consideration the ban for appointment has been lifted, the request for regularisation of the service of the Petitioners and to bring them into time scale of pay be considered favourably. In the meantime, the Petitioners also made representations to the Deputy Director of DRDA and others on 27.06.2007 referring to all the above said proceedings and recommendations and requested to bring them on time scale of pay. By letter dated 21.03.2008, the District Collector, Dharmapuri has specifically recommended for bringing the Petitioners under time scale of pay and it is relevant to extract the same, which reads as follows:

I invite kind attention to the reference cited. Tmt. P. Umayal and Thiru. K. Selvaraj, Field Assistants, SGSY, District Rural Development Agency, Dharmapuri, who were appointed as Field Assistants in 1985 to look after DWCRA groups on a consolidated pay of Rs. 1,000/-per month and they are still continuing to draw the same consolidated pay without any service benefits. They have requested to absorb them under time scale of pay and give them service benefits.

In this connection, I am to inform that details of the issue along with service details of these two incumbent have already been submitted by the Project Officer, District Rural Development Agency, Dharmapuri, as per the letter Roc. No. 2384/97 Dated: 30.07.1987 and Roc. No. 624/2006/R5 dated: 11.12.2007 (copies enclosed).

I request that the requests of the incumbents may be recommended to Government for absorbing them under suitable regular establishment.

17. This letter of the District Collector dated 21.03.2008 was followed by a letter of Joint Director, Project Officer, District Rural Development Agency wherein the minutes of the meeting of the Dharmapuri District Development Corporation held on 07.06.2002 was pointed out. It was stated that in the meeting held on 07.06.2002, it was decided to retain the field officers in service as it is. Accordingly, they are being continued till date on consolidated pay of Rs. 1,000/-per mensem. Subsequently, by a letter dated 30.04.2008, the Petitioners were relieved from their posts and directed to take charge as Field Officers in the programme called Ponvizha Grama Suya Valai Vaippu Thittam where the Petitioners are presently working.

18. From these proceedings, it is clear that the Petitioners have been employed as Field Officers from 1985 or 1986, as the case may be, only with the concurrence and knowledge of the successive District Collectors and other officers. But it is rather unfortunate that the Petitioners service has been exploited and for all these years, they were made to work for a paltry and meager amount of Rs. 1,000/-per month. The Petitioners have not even been paid the minimum wages all these years. Curiously, now, in the counter affidavit, the third Respondent would contend that the Petitioners original appointment itself are illegal and that after 1993, they were allowed to work without any orders. It was further contend that the performance of the Petitioner in WP No. 3571 of 2009 is far from satisfactory. In fact, in the order dated 30.04.2008 relieving the Petitioners to take charge as Field Officers in the Ponvizha Grama Suya Valai Vaippu Thittam, nothing was has been stated regarding their irregular appointment or that they were working without any orders or sanction from the Government. Contra, the District Collectors and other officers have recommended that the Petitioners should be brought into regular time scale of pay and also issued certificates of appreciation in their favour for their work. While so, by a memo dated 09.02.2009 of the District Collector, Dharmapuri, the petitioner in WP No. 3571 of 2009 was sought to be terminated from his long length of service, which is unwarranted besides legally not sustainable. Only in that memo dated 09.02.2009, for the first time, certain deficiencies were allegedly pointed out in the service rendered by the Petitioner K. Selvarasu. Whereas, in the earlier occasion, the District Collector of Dharmapuri District has given certificate in favour of the Petitioners.

19. It is seen from the proceedings dated 20.10.2008 of the District Collector, Dharmapuri that wages are being paid to the Petitioners from the contingency fund for labourers under various categories. From that proceedings, it is seen that skilled labourers such as Carpenter, mason, Tailor etc., are paid Rs. 155/-per day; unskilled labourers such as Head Mazdoor are paid Rs. 105/-per day and other skilled menials such as Sweeper, Watchman etc., are paid R.100/-per day. Whereas, the Petitioners

who are highly qualified are being paid Rs. 1,000/-per month as consolidated pay for the past more than 23 years. In spite of various proposals and recommendations made to bring them under time scale of pay, nothing could be done due to the inaction on the part of the Government. In fact, one of the Petitioners Selvaraj is a Master Graduate having completed M.A., B.L., and the other Petitioner Umayal had completed her graduation.

20. In this connection, the learned Counsel for the Petitioners relied on the decision of the Division Bench of this Court in WP Nos. 25490 to 25493 of 2002 etc., batch dated 25.08.2006 wherein in para Nos. 14, 15, 16 and 17, it was held as follows:

14. A reading of the above, it is clear that the issue in regard to regularising the service of the staff engaged in HRR Cs as well as other research Projects of the ICMR has been under consideration with the Union Ministry of Health & F.W. even since 2000. It is very deplorable that even after years also, no effective steps were taken to regularise the services of the Respondents/ employees. Even on this day also, when the matter is taken up, the learned standing counsel for the Petitioners brought to the notice of this Court the letter, dated 18.08.2000 said to have been sent by the ICMR stating that the said issue of regularisation is still under consideration with the Ministry of Health and Family Welfare. Therefore, having regard to all these aspects, we agree with the view taken by the Tribunal that the services of the Respondents/employees have to be regularised.

15. The learned senior counsel appearing for the Respondents/employees, by relying upon the judgment of the Division Bench of this Court reported in 2005 II LLJ (cited supra) wherein also the Appellant is ICMR, submitted that if a person is continued in a post for more than certain limited period, he is entitled to regularisation from the date of his initial appointment and therefore, the services of the Respondents/employees ought to have been regularised from the date of their respective initial appointments. In similar facts of the present case, the Division Bench of this Court has held in para 28 and 29 as under:

28. In service jurisprudence, no post can be treated permanently as temporary. Temporary means only for a certain period. When a post being held by a person continues to be held for more than a certain limited period, it cannot be said that it is a temporary post. Such continuance, in a certain post, automatically takes away the character of temporary post and takes the character of permanent.

29. Even the project or department or whatever the name be, can function on yearly renewal basis, but the services of the persons working in such project or any other departments cannot be kept as temporary for more than a certain limited period. Because the renewal of the project or departments on yearly basis would not affect its functions and objectives, whereas, the services of the person working in such project or departments are not regularised, if they are working for more than certain limited period, which would not only affect their career but also their entire

life.

16. While holding so, the Division Bench has ultimately held that the services of the first Respondent therein, have to be regularised from the date of her initial appointment....

17. Therefore, applying the above ratio to the facts of the present case, we are of the view that the services of the Respondents/employees have to be regularised from the date of their respective initial appointments. Accordingly, to that extent, we modify the order of the Tribunal.

21. The Division Bench of this Court ultimately upheld the order of the Tribunal directing the Respondents to consider the claim of the Petitioners for regularisation of their service and pass orders within a period of twelve weeks. The said order is applicable to the facts of the present case.

22. In yet another decision of the Division Bench of this Court reported in (Manager (P&A), Oil and Natural Gas Corporation Limited, Chennai v. G. Radhakrishnan 2005 (2) LLN 881. In that case, a Security Guard was employed on contract basis and he was terminated on the ground that he attained the age of 58, but he claimed that he should be retained in service till the age of 60 years as in the case of regular employees. The Division Bench of this Court held that the workmen is deemed to have been in service till the age of 60 and ordered as follows:

25. As we have found from the factual matrix involved in the case on hand that the claim of the Appellant as regards the employment of the Respondent does not fall within Section 2(oo)(bb) of the Industrial Disputes Act, it will have to be held that the services of the Respondent could not have been terminated atleast without following the statutory requirements as stipulated u/s 25F of the Industrial Disputes Act as the termination resorted to by the Appellant squarely falls within the definition of "retrenchment" as defined u/s 2(oo) of the Industrial Disputes Act. Consequently, we are obliged to state that the impugned order of termination

23. In that case, the Division Bench held that when once the employment of the Petitioner was found to be on a regular basis and such employment continued for more than 10 years in an uninterrupted manner that by itself will confer every legal right on the employee to claim that he was employed on a regular basis. In this case, the Petitioners were working continuously for the past 23 years on consolidated pay, but unfortunately, they were not brought into regular time scale of pay.

24. In the decision reported in [Sanjit Roy Vs. State of Rajasthan](#), the Honourable Supreme Court held that payment of minimum wages in construction work, even in famine, drought or scarcity affected areas is applicable and excluding such workers from the benefit of payment of minimum wages Act, was held to be unconstitutional under Article 23 of the Constitution of India. Here, in this case, the Petitioners were

highly qualified, but for the past 23 years, they were deprived of the benefits which are intended to regular or permanent employees.

25. The learned Government Advocate appearing for the Respondents would now contend that in the decision of the Honourable Supreme Court reported in [Secretary, State of Karnataka and Others Vs. Umadevi and Others](#), it was held that contract employees are not eligible to seek permanent absorption. This is not a case where the appointment of the Petitioners are illegal or improper. From the beginning, the Petitioners were appointed and working as Field Officers by the Project Officer under UNICER scheme on a day to day basis and thereafter, they were brought into regular establishment under the IRDP programme and they continued to work there. Every time when the District Collectors or other officers recommended the case of the Petitioners for bringing them into regular time scale of pay, it was simply kept on file without any orders being passed. Under those circumstances, the argument of the learned Government Advocate for the Respondents, relying on Uma Devi's case, is not legally sustainable.

26. In view of the factual findings rendered above, the Respondents are directed to consider the claim of the Petitioners for bringing them into regular time scale of pay and pass orders on merits and in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order. Accordingly, WP Nos. 3571 and 3572 of 2010 are allowed.

27. In view of the above, the proceeding of the Respondent in Proc.1538/08/A4 dated 09.02.2009, which is impugned in WP No. 5975 of 2009, is quashed. WP No. 5975 of 2009 is allowed as prayed for. No costs. Consequently, connected miscellaneous petitions are closed.