

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.1829 to 1885 of 2016

1 C.INDHUMATHI ... PETITIONER in WP No.1829 of 2016  
1 UMA ... PETITIONER in WP No.1830 of 2016  
1 E.RAVI ... PETITIONER in WP No.1831 of 2016  
1 S.LAKSHMI ... PETITIONER in WP No.1832 of 2016  
1 D.BHUVANA ... PETITIONER in WP No.1833 of 2016  
1 D.SUMATHI ... PETITIONER in WP No.1834 of 2016  
1 A.DHURAI ... PETITIONER in WP No.1835 of 2016  
1 D.SENTHAMARAI ... PETITIONER in WP No.1836 of 2016  
1 P.DHINAKARAN ... PETITIONER in WP No.1837 of 2016  
1 K.THANGARAJ ... PETITIONER in WP No.1838 of 2016  
1 C.SENTHILKUMAR ... PETITIONER in WP No.1839 of 2016  
1 M.VASUGI ... PETITIONER in WP No.1840 of 2016  
1 N.TAMILSELVI ... PETITIONER in WP No.1841 of 2016  
1 R.DHURGA DEVI ... PETITIONER in WP No.1842 of 2016  
1 JAYAKUMAR ... PETITIONER in WP No.1843 of 2016  
1 JOTHI ... PETITIONER in WP No.1844 of 2016  
1 RAJA ... PETITIONER in WP No.1845 of 2016  
1 RAVICHANDRAN ... PETITIONER in WP No.1846 of 2016  
1 P.MATHIVATHANAN ... PETITIONER in WP No.1847 of 2016  
1 S.ESWARI ... PETITIONER in WP No.1848 of 2016

1 R.DANIEL ROBERT ... PETITIONER in WP No.1849 of 2016  
1 C.PUNITHADEVI ... PETITIONER in WP No.1850 of 2016  
1 G.JOTHILAKSHMI ... PETITIONER in WP No.1851 of 2016  
1 N.SATHYA ... PETITIONER in WP No.1852 of 2016  
1 A.RAMACHANDRAN ... PETITIONER in WP No.1853 of 2016  
1 P.PALANI ... PETITIONER in WP No.1854 of 2016  
1 MADHAMMAL ... PETITIONER in WP No.1855 of 2016  
1 P.ARIVUSELVAM ... PETITIONER in WP No.1856 of 2016  
1 P.SHANMUGAMOORTHY ... PETITIONER in WP No.1857 of 2016  
1 K.M.KARTHIKEYAN ... PETITIONER in WP No.1858 of 2016  
1 THIRUMAL ... PETITIONER in WP No.1859 of 2016  
1 S.MANI ... PETITIONER in WP No.1860 of 2016  
1 U.CHITRA ... PETITIONER in WP No.1861 of 2016  
1 M.SATHISBABU ... PETITIONER in WP No.1862 of 2016  
1 P.DHANASEKARAN ... PETITIONER in WP No.1863 of 2016  
1 D.KAMALAKANNAN ... PETITIONER in WP No.1864 of 2016  
1 P.MURUGAN ... PETITIONER in WP No.1865 of 2016  
1 D.MANIMOZHI ... PETITIONER in WP No.1866 of 2016  
1 S.GOPIKRISHNAN ... PETITIONER in WP No.1867 of 2016  
1 K.KALEESVARAN ... PETITIONER in WP No.1868 of 2016  
1 A.VEERHAMANIKANDHAN ... PETITIONER in WP No.1869 of 2016  
1 G.MANIMEGALAI ... PETITIONER in WP No.1870 of 2016  
1 P.S.MANIMOZHI ... PETITIONER in WP No.1871 of 2016  
1 D.DURAI ... PETITIONER in WP No.1872 of 2016

1 K.THOMAS ... PETITIONER in WP No.1873 of 2016  
1 K.RAJESHKANNAN ... PETITIONER in WP No.1874 of 2016  
1 M.SIVAKUMAR ... PETITIONER in WP No.1875 of 2016  
1 R.KALAIARASI ... PETITIONER in WP No.1876 of 2016  
1 P.ADHIRAI ... PETITIONER in WP No.1877 of 2016  
1 T.PRABHAVATHI ... PETITIONER in WP No.1878 of 2016  
1 R.ROHINI ... PETITIONER in WP No.1879 of 2016  
1 S.ALAGU SUNDHAR ... PETITIONER in WP No.1880 of 2016  
1 L.SIVASANKARI ... PETITIONER in WP No.1881 of 2016  
1 S.KAVITHA ... PETITIONER in WP No.1882 of 2016  
1 G.SETHURAMALINGAM ... PETITIONER in WP No.1883 of 2016  
1 J.PUNITHA ... PETITIONER in WP No.1884 of 2016  
1 P.SAVITHRI ... PETITIONER in WP No.1885 of 2016

-vs-

1.The Secretary to Government,  
Health and Family Welfare,  
Government of Tamil Nadu,  
Fort St. George,  
Chennai - 600 009.

2.The Project Director, सतयमेव जयते  
Tamil Nadu State Aids Control Society,  
417, Pantheon Road, Egmore,  
Chennai - 8.

3.The Chairman,  
Medical Services Recruitment Board,  
Teynampet, Chennai - 6. .. Respondents in all the WPS

Prayer in W.P.No.1829 to 1860 /2016 : Writ Petitions filed under  
Article 226 of the Constitution of India praying to issue a Writ  
of Certiorarified Mandamus calling for the records from the

first respondent in connection with the impugned letter bearing Reference No.373/EAPI/2/2015-3, dated 10.09.2015, and quash the same and further direct the respondents to regularize the service of the petitioner in the post of Laboratory Technician Grade-II.

Prayer in W.P.No.1861 to 1885/2016 : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records from the 2<sup>nd</sup> respondent in connection with the impugned letter bearing Reference No.004930/A3/Estt/TANSACS/2015, dated 25.11.2015, and quash the same and further direct the respondents to regularize the service of the petitioner in the post of Laboratory Technician Grade-II.

IN ALL WPs.

For petitioners : Mr.P.Ganesan  
for M/s.M.Kavi Veerappan

For R1 & R3 : Mr.K.Venkataramani, AAG  
Assist.By Mr.M.Digvijayapandian, AGP for R1  
and Mr.A.Vivek for R3

For R2 : Mrs.R.Rathnathara

COMMON ORDER

Challenging the impugned proceedings dated 10.09.2015 of the first respondent / the Secretary, Department of Health and Family Welfare, Chennai, refusing to regularize their services, the petitioners have filed these writ petitions seeking to quash the said impugned proceedings.

2. Since the facts involved in all these writ petitions are one and the same, they are disposed of by this common order. For better appreciation, facts involved in W.P.No.1829 of 2016 are stated below:

The petitioner was appointed as Lab Technician in the Tamil Nadu State Aids Control Society on 25.09.2003, as she was having the requisite qualification of Certificate Course in Medical Laboratory Technology (CMLT) for appointment to the said post. Pursuant to the notification issued in the Newspaper calling for applications, she was appointed in the said post after undergoing the selection process. At the time of appointment, she was given a sum of Rs.4,500/- and now, a consolidated sum of Rs.16,750/- per month is being given.

3. Now, it is the grievance of the learned counsel for the petitioners that though they were working continuously for so many years, their services have not been regularized and therefore, they have made several representations to the Ministry of Health and Family Welfare Department of Aids Control, New Delhi, seeking to regularize their services and thereafter, the said Authority has issued a letter dated 04.08.2014 stating that it had no objection, in case, the State Government intends to regularize the staffs working in the second respondent Society. For better appreciation, relevant portion of the said letter is extracted below:

"However, in case, State Government intends to regularize the contractual staff, the Department have no objection to the same contingent to the fact that there would be no additional financial liability on the central Government, and it would be State responsibility in case of dissolution of concerned State AIDS Control Societies."

4. In these circumstances, the petitioners made a representation dated 06.06.2015 seeking to regularize their services in the light of the aforesaid letter dated 04.08.2014 of the Ministry of Health and Family Welfare Department of AIDS Control (Finance Wing), New Delhi. However, since the said representation has not been considered, they have filed Writ Petition Nos.18880 of 2015, etc., whereby, this Court, by order dated 30.06.2015, directed the first respondent to consider and pass appropriate orders on the pending representation dated 06.06.2015 of the petitioners within a period of six weeks. Pursuant to the direction of this Court, the first respondent had passed the impugned proceedings dated 10.09.2015 refusing to regularize the services of the petitioners.

5. Assailing the impugned order, learned counsel for the petitioners submitted that when the petitioners have been continuously working for more than 13 years in the second respondent Society, which is registered under the Tamil Nadu Societies Registration Act, 1975, the respondent cannot refuse to regularize their services on the ground that they were temporarily appointed persons. It is further submitted that similar kind of Lab Technicians, who were working under the Revised National Tuberculosis Control Programme (RNTCP), were regularized in service, therefore, the denial of regularizing the services of the petitioners even after their continuous services of 13 years is untenable and unjustified.

6. Referring to the interview call letter dated 03.09.2003 issued by the Joint Director of Health Department,

Kumbakonam, it is submitted that when all these petitioners, who were posted at the Headquarters of their respective District, were appointed only through the employment exchange, the respondent cannot now refuse to regularize their services, otherwise, their 13 years of unblemished continuous service would become meaningless. It is also further stated that pursuant to their appointment, names of the petitioners have been deleted from the employment exchange, therefore, a direction may be given to regularize their services.

7. Per contra, learned Additional Advocate General appearing for the respondents 1 and 3 submitted that the Medical Services Recruitment Board (MSRB) had issued a Notification No.08/2016, dated 31.01.2016, inviting applications through online for recruitment to the post of Lab Technician Grade-II to fill up 524 posts. Prior to the Notification, few candidates have filed Writ Petition Nos.18880 of 2015, etc., whereby, this Court, by order dated 30.06.2015, directed the respondents to consider and pass appropriate orders on the representation made by the petitioners. Pursuant to the said order, the first respondent, by taking note of the fact that all these petitioners were appointed only on contractual basis in Tamil Nadu State Aides Control Society for a period of one year and thereafter a new contract was entered every year based on their performance, refused to regularize the services of the petitioners. Furthermore, since all these petitioners are possessing only one year Certificate course in Medical Laboratory Technology, the request of the petitioners to regularise their services in the post of Lab Technician Grade-II is not feasible for compliance, for, as per the adhoc rule, the candidates with Diploma in Medical Laboratory Technology (DMLT) alone will be considered for selection to the post Laboratory Technician Grade -II.

8. However, during the course of the arguments, it is also stated by the learned Additional Advocate General for the respondents that the Notification No.08/2016, dated 31.01.2016, issued by the Medical Services Recruitment Board inviting applications for appointment to the post of Lab Technician Grade-II to recruit 524 candidates is noway related to the posts in which the petitioners are presently working and therefore, the petitioners cannot have any apprehension that they are going to be displaced by appointing new candidates. It is at this point of time, learned counsel for the petitioners submitted that if the respondents, by way of the above said Notification, are not going to fill up the post of the petitioners, then they will not have any grievance, for which, learned Additional Advocate General further made it clear that they will not disturb the services of the petitioners.

9. Learned counsel for the second respondent submitted that there is no plan of winding up of the second respondent Society in the near future, as it is controlling the main object of the scheme, therefore, the petitioners need not have any apprehension that their services will be ended.

10. Since the Notification dated 31.01.2016 issued by the Medical Services Recruitment Board to fill up 524 posts of Lab Technician Grade-II are not going to disturb the petitioners' employment as submitted by the learned Additional Advocate General and that the second respondent has also stated that they will not stop the activities of the second respondent Society in the near future, there is no further orders required. It is also to be taken note of that at the time when the petitioners were appointed, only the Certificate Course (one year period) in Medical Laboratory Technology was available, therefore, the petitioners were appointed in the post of Lab Technician Grade-II as could be seen from the interview call letters dated 06.07.2002 and 03.09.2003. In such view of the matter, the contention of the respondents that petitioners are not possessing the qualification of Diploma Course in Medical Laboratory cannot be sustained.

11. Thus, by recording the submission of the learned Additional Advocate General that the Notification dated 31.01.2016 issued by the MSRB will not affect the services of the petitioners, the writ petitions are disposed of. With regard to the regularization of services of the petitioners, it is for the authorities to take a decision considering the fact that they have been working for more than 13 years of continuous services under the respondents. Consequently, interim injunction already granted by this Court stands vacated in view of the said submissions of the learned Additional Advocate General. Consequently, connected miscellaneous petitions are closed. No Costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rkm

To

1. The Secretary,  
Department of Health and Family Welfare,  
Fort St. George,  
Chennai - 600 009.

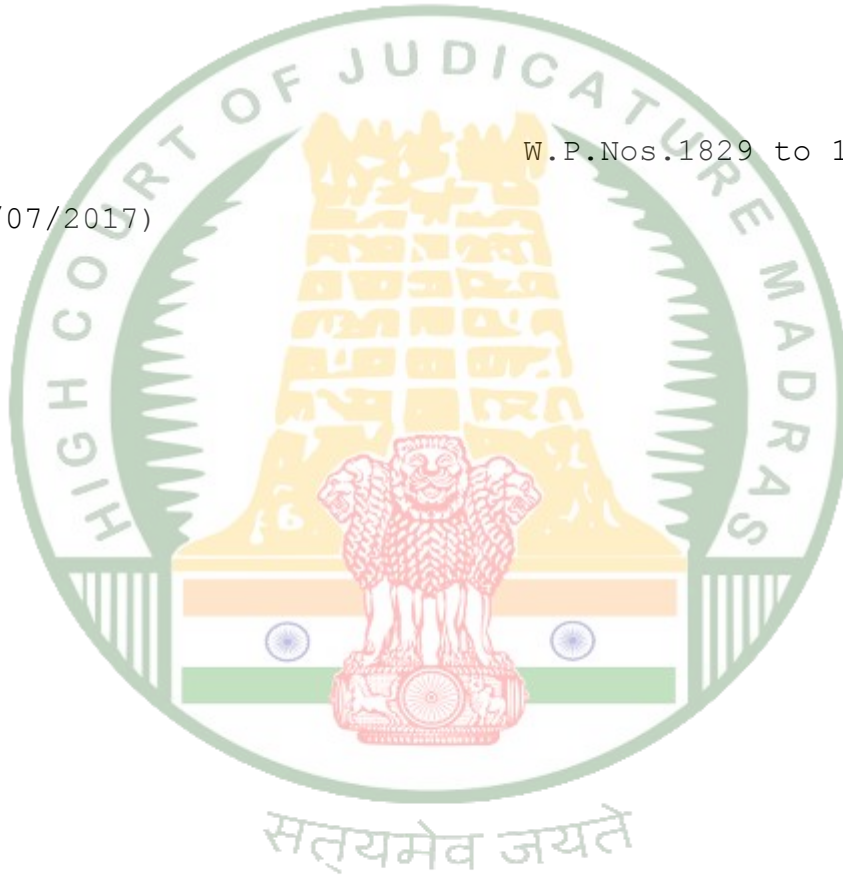
2.The Project Director,  
Tamil Nadu State Aids Control Society,  
417, Pantheon Road, Egmore,  
Chennai - 8.

3.The Chairman,  
Medical Services Recruitment Board,  
Teynampet, Chennai - 6.

+2cc to Mr.M.Kaviveerappan, Advocate SR.No.45196,45197  
+1cc to Mrs.R.Rathna thara, Advocate SR.No.45059

W.P.Nos.1829 to 1885 of 2016

GN (27/07/2017)



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