

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2017

CORAM:

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH  
and  
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1511 of 2016  
and  
C.M.P.Nos.18672 of 2016 & 3936 of 2017

M.Ratnakumari

... Appellant/Writ Petitioner

.. Vs ..

1. The Union of India Represented by the  
Chief Secretary to Government,  
Government of Union Territory of Puducherry,  
Puducherry.
2. The Secretary to Government,  
Department of Health & Family Welfare,  
Puducherry.
3. The Director of Health & Family Welfare Services  
Government of Union Territory of Puducherry,  
Puducherry.
4. Puducherry Aids Control Society,  
Represented by its Project Director,  
Ground Floor, Old Maternity Hospital Building,  
Victor Simonel Street,  
Puducherry - 605 001.
5. The Medical Superintendent,  
Indira Gandhi Government General Hospital,  
Government of Union Territory of Puducherry,  
Puducherry.
6. The National AIDS Control Organization,  
Represented by its Director General,  
9th Floor, Chandralok Building,  
No.36, Janapath,  
New Delhi - 110 001.

7. Dr.Jayanthi Gurumurthy,  
Project Director,  
Pondicherry AIDS Control Society,  
Ground Floor, Old Maternity Hospital Building,  
Victor Simonel Street,  
Puducherry - 605 001.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent,  
against the order dated 03.11.2016 passed by this Court in  
W.P.No.27075 of 2016.

W.P. No 27075 of 2016:

This Writ Petition is filed under Article 226 of the constitution of India seeking for a Writ of Declaration, declaring the action of the Respondents 1 to 6 is dispensing with the services of the Petitioner as Computer Literate Steno under the 4<sup>th</sup> Respondent Society as illegal and consequently continue the services of the Petitioner with all service, seniority and monetary benefits.

For Appellant : Mr.T.Saikumar, Senior Counsel  
for Mr.Kamala Kumar

For RR-1, 2, 3 & 5 :Mr.Syed Mustafa  
Special Govt. Pleader (Pondicherry)

For RR-4 & 7 :Mrs.R.Rathna Thara

JUDGMENT

(Judgment of the Court was delivered by  
HULUVADI G.RAMESH, J.,)

This Writ Appeal is directed against the order dated 03.11.2016 dismissing the writ petition filed by the appellant in W.P.No.27075 of 2016, which was filed to declare the action of the respondents 1 to 6 in dispensing with the services of the appellant as Computer Literate Steno under the fourth respondent/Puducherry AIDS Control Society, as illegal and consequently, continue the services of the appellant with all service, seniority and monetary benefits.

2. The case of the appellant is that she was appointed as Computer Literate Steno on 28.11.2015 by the Puducherry AIDS Control Society/fourth respondent, on contract basis and she has been continuing to function in the said post till 31.03.2016. On 25.07.2016, the fifth respondent, without issuing any notice or written communication to the appellant, orally informed that

her services were dispensed with. The matter was taken up by the appellant by filing the above writ petition, seeking the aforesaid relief and the learned single Judge, after hearing the learned counsel on either side and after considering the materials placed before the Court, had dismissed the said writ petition as not maintainable. As against the said order of dismissal, the appellant has preferred this writ appeal.

3. Heard Mr.T.Saikumar, learned Senior Counsel appearing for the appellant and Mr.Syed Mustafa, learned Special Government Pleader (Pondicherry), appearing for respondents 1, 2, 3 and 5 and Mrs.R.Rathna Thara, learned counsel appearing for respondents 4 and 7.

4. This Court, by an order dated 25.11.2016 in C.M.P.No.18672 of 2016, has granted interim order in favour of the appellant. Thereafter, the said interim order was vacated by order dated 23.01.2017. In the said order dated 23.01.2017, passed in C.M.P.No.364 of 2017, at paragraph No.5, this Court has observed as follows:-

"5. Taking an over all view of the matter, we are inclined to believe that the balance of convenience does not lie in faovur of the writ petitioner/appellant. Unless she succeeds in the Writ Appeal, demonstrating that the non-renewal of contract of employment in her case amounts to a breach of any of the fundamental rights guaranteed to her, termination said to be brought about in the garb of non-renewal of contract, cannot be interfered with."

5. The order passed in the C.M.P.No.364 of 2017 while granting vacate stay wherein it has been held, 'demonstrating that the non-renewal of contract of employment in her case amounts to breach of any of the fundamental rights guaranteed to her and termination said to be brought about in the garb of non-renewal of contract, cannot be interfered with', holds good.

6. In that view of the matter, we are of the clear view that it is not amenable to writ jurisdiction. The second thing is, under the Registration of Societies Act, it is not as if there is no remedy at all to the appellant with regard to the terms of the employment and issuance of contract. Insofar as the employment and termination are concerned, Registration of Societies Act being a comprehensive Act, recognizes the jurisdiction of the authorities like the Deputy Registrar and the Joint Registrar. Hence, we are of the view that remedy is available under the law. It is for the concerned authorities to look into the matter with regard to the nature of the grievance expressed by the appellant. The earlier benefit was extended to the appellant when she was working on deputation. It is well

settled principle that there shall not be any exploitation without payment of salary. Since the appointment was continued on deputation, the salary protection was upheld, and it is not necessary to mean that continuation of appointment has been in terms of Article 12 of the Constitution of India. Since the Aids Control Society is not amenable to writ jurisdiction, we cannot take a different view characteristic of the Societies registered under the Societies Act. It does not satisfy all the requirements of the State. Finally, we observe that it is not as if the appellant is remediless and she has proper course of action to get her grievances redressed.

7. With the above observation, the Writ Appeal is disposed of. No costs. The connected miscellaneous petitions are closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

Jr1

To

1. The Chief Secretary to Government,  
Union of India,  
Government of Union Territory of Puducherry,  
Puducherry.
2. The Secretary to Government,  
Department of Health & Family Welfare,  
Puducherry.
3. The Director of Health & Family Welfare Services  
Government of Union Territory of Puducherry,  
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4. The Project Director,  
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6. The Director General,  
The National AIDS Control Organization,  
9th Floor, Chandralok Building,  
No.36, Janapath,  
New Delhi - 110 001.

+1 CC to Mr.R. Saravanan, Advocate sr 88445.  
+1 CC to Mr.R. Rathanathara, Advocate sr 88719.

W.A.No.1511 of 2016

MR(CO)  
SP(02/02/2018)



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