

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A No.2201 of 2013 and

M.P.No.1 of 2013

- 1.The Director,
Department of Public Health and Preventive Medicine,
DMS Campus, Teynampet,
Chennai -6.
 - 2.The District Collector,
Perambalur.
 - 3.The Deputy Director,
Department of Health and Family Welfare,
Perambalur. Appellants
- vs-
- Dr.S.Snekalatha Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P No.17332 of 2013 dated 27.06.2013.

Prayer WP.No.17332/2013:Petition filed under Article 226 of the constitution of India for the issuance of writ of certiorarified mandamus calling for the records relating to proceedings R.C.No.1868/NRHM-2/2012 dated 15.06.2012 issued by the 3rd Respondent and proceedings R.C.No.A1/8971/2012 dated 08.01.2013 passed by the 2nd Respondent herein quash the same and consequently direct the Respondents herein to reinstate the petitioner as a Dental Surgeon on hired basis within a period stipulated by this Court.

For Appellants : Mr.K.Karthikeyan
Government Advocate

For Respondent : Mr.T.Seenivasan

J U D G M E N T

[Judgment of the Court was delivered by
K.K. SASIDHARAN,J.]

The respondent was employed as Dental Surgeon at the Primary Health Centre, Karai, Perambalur District, for a period of one year. The appointment was on 24.02.2011. The

service of the respondent was extended even after the original period. While so, the Deputy Director, Health and Family Welfare, Perambalur, by order dated 15 June 2012 terminated the service of the respondent and she was relieved. The respondent filed a review petition before the District Collector, Perambalur. The review petition was dismissed by order dated 8 January 2013. Feeling aggrieved, the respondent filed a writ petition before the Writ Court in W.P.No.17332 of 2013. The learned single Judge having found that notice was not given to the respondent before terminating her from service on account of certain misconduct set aside the order and a Mandamus was issued to reinstate her forthwith. The said order is under challenge at the instance of the State.

2. The learned counsel for the appellants contended that the appointment was purely temporary and that too for a period of one year. The appellants were therefore justified in terminating her service without notice.

3. We have also heard the learned counsel for the respondent.

4. The respondent was initially appointed for a period of one year. The appointment was on 24.02.2011. The order passed by the Deputy Director, Department of Health and Family Welfare, Perambalur, dated 15 June 2012, indicates that termination was on account of the complaints given by the Block Medical Officer, Karai and the hospital workers through the Block Medical officer, Primary Health Centre, Karai. Therefore, it is evident that the termination was on account of a misconduct. However, there is nothing on record to indicate that enquiry was conducted before terminating the service with notice to the respondent. The order passed by the Deputy Director, Department of Health and Family Welfare would cause stigma to the respondent. She was not given a chance to explain her position. The learned Judge was therefore correct in setting aside the order passed by the second appellant.

5. The further question is as to whether the learned single Judge was justified in directing the appellants to reinstate the respondent in service forthwith and to conduct enquiry.

6. It is not in dispute that by the time the order was passed by the learned single Judge, the initial period of appointment expired by efflux of time. There is no question of directing the appellants to reinstate the respondent forthwith on account of the subsequent events relating to the expiry of the term of appointment. We are therefore of the view that the learned single Judge was not correct in directing the appellants to reinstate the respondent.

7. Since certain observations were made with regard to the conduct of the respondent without conducting enquiry, we expunge all such remarks. We make it clear that the termination of the respondent shall be treated as one made on account of the expiry of original term and not on account of misconduct.

8. The intra court appeal is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

svki

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

- 1.The Director,
Department of Public Health and Preventive Medicine,
DMS Campus, Teynampet,
Chennai -6.
- 2.The District Collector,
Perambalur.
- 3.The Deputy Director,
Department of Health and Family Welfare,
Perambalur.

+lcc to Government Pleader sR.No.11731

VD(CO)

sm:13.3.2018

सत्यमेव जयते

W.A No.2201 of 2013

WEB COPY