



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) Nos.17277 & 17278 of 2016

&

WP (MD) No.13290 of 2017

and

WMP (MD) Nos.12554 & 12555 of 2016

&

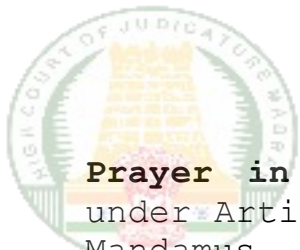
WMP (MD) No.10235, 10236, 10358 of 2017

R.Bharathi ... Petitioner in WP(MD) No.17277 of 2016
& Petitioner in WP(MD) No.13290 of 2017

N.Sasikala ... Petitioner in WP(MD) No.17278 of 2016

Vs.

1. The Chief Engineer/Personnel,
Tamil Nadu Generation and
Distribution Corporation Ltd,
No.800, Anna Salai,
Chennai - 600 002. ... 1st respondent in
WP (MD) No.13290 of 2017
2. The Medical Officer,
Head Quarters Dispensary,
TNEB/TANGEDCO,
N.P.K.R.R.Maligai,
800, Annasalai, Chennai-02.
3. The Superintending Engineer,
O/o. The Superintending Engineer,
Generation Circle,
Maharaja Nagar, Tirunelveli - 627 011,
Tirunelveli District. ... 2 & 3rd respondents in
WP (MD) No.13290 of 2017
... 1st & 2nd respondents in
WP (MD) Nos.17277 & 17278 of 2016
4. The Executive Engineer,
Periyar Power Houses,
TANGEDCO,
Periyar Project, Lower Camp,
Uthamalapalayam Taluk,
Theni District - 625 625. 3rd respondent in
WP (MD) Nos.17277 & 17278 of 2016



Prayer in WP(MD)No.13290 of 2017: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to continue to employ the petitioner as the Maternity Assistant in TANGEDCO dispensary in Suruliya, Theni District till the post is filled permanently.

Prayer in WP(MD)Nos.17277 & 17278 of 2016 : These Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders in Memo Nos.007711/617/SEG/Tin/Adm.I/A.1/F.Phar/2016-2 and 007711/617/SEG/Tin/Adm.I/A.1/F.Phar/2016-3 dated 02.08.2016 on the file of the respondent No.2 and quash the same as illegal and consequently to direct the respondents to retain the petitioner as the Maternity Assistant in TANGEDCO dispensary.

For Petitioner : Mr.T.Lajapathi Roy
in all writ petitions

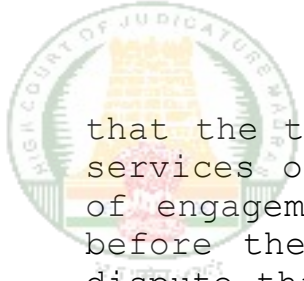
For Respondents : Mrs.S.Srimathy,
in all writ petitions Special Govt.Pleader for R1

Mr.S.M.S.Johnny Basha
for R2 & R3

COMMON ORDER

The writ petitioners are questioning the impugned orders dated 02.08.2016 issued by the second respondent herein terminating the services of the writ petitioners who were working as Maternity Assistants in the dispensaries run by the TANGEDCO. The writ petitioners were originally appointed on outsourcing basis. R.Bharathi, the petitioner in WP(MD)No.13290 of 2017 and WP(MD) No.17277 of 2016 had undergone Auxiliary Nurse Midwifery Course conducted by TANGEDCO Limited and Bodi Paraa Medical College, Bodinayakanur. N.Sasikala, the petitioner in WP(MD)No.17278 of 2016 had cleared the course conducted by the Centre for Entrepreneurship Development. Their engagement as Maternity Assistant was renewed originally. By order dated 11.02.2016, the services of R.Bharathi were renewed for a period of one year. The services of N.Sasikala were renewed for a period of one year vide order dated 30.10.2015.

2.While so, the services of both the petitioners were terminated on the ground that the courses undergone by them were not approved by Nursing Council of India. This was the only reason for disengaging the writ petitioners. It is not in dispute that both the writ petitioners were appointed as Medical Assistants only on outsourcing basis. It is also not in dispute



that the terms of engagement were contractual in character. The services of the writ petitioners were for one year from the date of engagement. Admittedly, the writ petitioners were disengaged before the contractual period had expired. It is also not in dispute that the writ petitioners were not put on notice.

3.This Court is therefore of the view that the petitioners who admittedly cannot be said to be guilty of any misconduct or misrepresentation, will have to be paid salary for the unexpired period of their services. In the case of N.Sasikala, it appears that in the 10th month she was terminated whereas in the case of R.Bharathi she had atleast 6 more months to go.

4.This Court directs the second respondent to calculate the salary payable to the respective petitioners for unexpired period of contract. Such an amount shall be paid within a period of eight weeks from the date of receipt of a copy of this order. The ground on which the services of the writ petitioners were disengaged was that their courses were not approved by the Nursing Council of India. The writ petitions were filed quite some time back. The writ petitioners could have very well invoked the provisions of the R.T.I Act and obtained information from the Nursing Council of India as to whether the courses undergone by them really approved or not. The writ petitioners failed to do so. The ground on which the impugned orders came to be issued is clear and specific. It is for the petitioner to dislodge such a ground. They have not done so.

5.Therefore, the orders impugned in these writ petitions are sustained. This Court has to take note of the fact that the writ petitioners were only contractually engaged and on outsourcing basis. They were not holding any regular posts. Still relief has been granted to the writ petitioners for payment of the salary for the unexpired period for two reasons. Firstly, the writ petitioners were not put on notice prior to their disengagement and secondly, they cannot be said to be guilty of any misconduct or misrepresentation.

6.These writ petitions are disposed of as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar



To

The Chief Engineer/Personnel,
Tamil Nadu Generation and
Distribution Corporation Ltd,
No.800, Anna Salai, Chennai - 600 002.

+1cc to the Spl. Government Pleader Sr.No.45189
+3cc to Mr.T.Lajapathi Roy, Advocate Sr.No.44714,44715,44716
+3cc to Mr.G.Kasinathadurai, Advocate Sr.No.45391,45392,45394
+1cc to Mr.S.M.S.Johnny Basha , Advocate Sr.No.45089

SKM

VB/JC/SAR4/08/05/2018/4P/10C

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