

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.02.2019

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.Nos.10487 to 10489 of 2018

A.Arasappan ...Petitioner in WP 10487/2018
B.Senguttuvan ...Petitioner in WP 10488/2018
M.Subramaniyan ...Petitioner in WP 10489/2018

Vs

1. The State of Tamil Nadu
Rep. by its Secretary
Health, Medical Education & Family Welfare
Department,
Fort St. George, Chennai - 600 009.
 2. The Secretary to Government of Tamil Nadu,
Labour and Employment Department,
Fort St. George, Chennai - 600 009.
 3. The Director of Public Health and Prevent Medicines
Services,
DMS Complex, No. 361, Anna Salai,
Chennai - 600 006.
 4. The Deputy Director of Health Services,
Beach Road, Cuddalore - 607 001.
 5. The Medical Officer,
Government Primary Health Centre,
Puthuchathram,
Cuddalore.
 6. The Medical Officer,
Government Primary Health Centre, Marungur,
Cuddalore.
- ...Respondents
in all W.Ps.

COMMON PRAYER : Writ Petitions filed under Article 226 of the Constitution of India, praying for the issue Writs of Certiorarified Mandamus, to quash the impugned order passed by the Fourth respondent dated 24.03.2017 and further direct the respondents to reinstate the petitioner for the posts of Drivers in the respondents Hospital/offices.

For Petitioner in all WPs : Ms.Rekha Sivakumar

For Respondents in all WPs : Mr.A.N.Thambidurai,
Special Government Pleader.

COMMON ORDER

The writ petitions on hand are filed questioning the oral termination issued by the fourth respondent on 24.03.2017 and to direct the respondents to reinstate the petitioners in the posts of Drivers.

2. The learned counsel for the writ petitioners states that the petitioners were appointed as drivers on contract basis. The petitioners are serving with the respondents on daily wage basis for the past more than 11 years. While-so, the fourth respondent orally terminated the writ petitioners from service. Thus, the present writ petitions are filed by the writ petitioners.

3. The learned counsel for the writ petitioners contended that though the writ petitioners were initially appointed and continued as daily wage basis, the nature of the work is permanent and therefore, the petitioners must be reinstated in service by the respondents. The respondents have not even passed an order of termination. Therefore, the procedures adopted by the respondents for terminating the services of the writ petitioners were illegal and accordingly, the prayer sought for by the writ petitioners in these writ petitions are to be considered.

4. The learned Special Government Pleader, appearing on behalf of the respondents, opposed the contentions of the learned counsel appearing for the writ petitioners by stating that the writ petitioners were not appointed in accordance with the Recruitment Rules in force. They were appointed on contract basis and no appointments orders were issued to the writ petitioners. As per the conditions laid down between the Director of Public Health and Preventive Medicines Scheme of National and Rural Health Mission to drop the delivered mother and child through Department vehicles to their house on call duty basis by oral instructions. Further, the writ petitioners were engaged by informing the Government instructions in regard to payment of daily wages to them based on the number of pick up and drop back delivered mothers. The writ petitioners were very much aware of the terms and conditions of their duties and therefore, the writ petitioners are not entitled to get the relief in these writ petitions.

5. The writ petitioners themselves have not produced any order of appointment. The Service Certificate submitted by the writ petitioners clearly states that the writ petitioners were appointed through outsourcing agency and worked at Government Primary Health Centre. Thus, the very nature of appointment is through outsourcing agency. Thus, the competent authorities have not issued any order of appointment nor the writ petitioners are directly appointed by the competent authorities of the Government Department.

6. Under these circumstances, the writ petitioners cannot seek any relief against the respondents in these writ petitions. This apart, permanent appointment, regularization or permanent absorption are to be given only in accordance with the Recruitment Rules in force. The writ petitioners, admittedly, were engaged as Drivers on daily wage basis through an outsourcing agency and under these circumstances, the writ petitioners have not established even a semblance of legal right, so as to consider the relief, as such, sought for in the present writ petitions.

7. Accordingly, the writ petitions are devoid of merits and stand dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

svn/mtl

To

1. The Secretary
State of Tamil Nadu
Health, Medical Education & Family Welfare
Department, Fort St. George,
Chennai - 600 009.

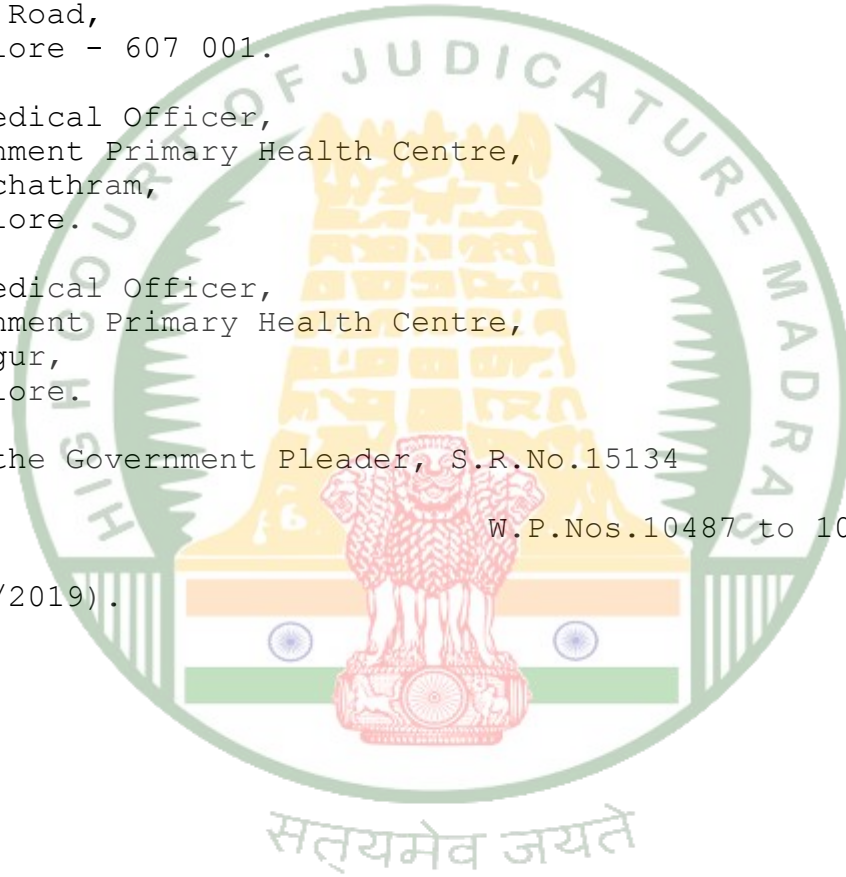
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2. The Secretary to Government of Tamil Nadu,
Labour and Employment Department,
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Chennai - 600 009.
3. The Director of Public Health and Prevent Medicines
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Cuddalore.
6. The Medical Officer,
Government Primary Health Centre,
Marungur,
Cuddalore.

+1 cc to the Government Pleader, S.R.No.15134

W.P.Nos.10487 to 10489 of 2018

MG(CO)
SSM(08/03/2019).



सत्यमेव जयते

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