

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.04.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.31295 of 2018

S.Murugan

.. Petitioner

..Vs..

1. State of Tamil Nadu,
Represented by Secretary to Government,
Health and Family Welfare,
Secretariat, Fort St.George
Chennai - 600 009.
2. Director,
Department of Public Health & Preventive Medicine,
Chennai - 600 006.
3. Mrs.Poongodi
Deputy Director,
Health Services,
Salem - 636 001.
4. Dr.R.Shanthi
Principle Civil Medical Officer,
Government Primary Health Centre,
Malliyakarai, Salem District.
5. Block Medical Officer,
Government Primary Health Centre,
Elampillai - 637 502, Salem District.
6. Block Medical Officer,
Government Primary Health Centre,
Chitoor,
Salem District.
7. Medical Officer,
Government Primary Health Centre,
Pakkanadu, (BLOCK - GPHC, CHITTOR)
Salem District.

.. Respondents

PRAYER :

Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd, Deputy Director Health Services Salem, 636001, pertaining to the impugned order of termination Na.Ka.No.12324/E5/2018 dated 17.10.2018 and quash the same with the consequential direction to the 3rd respondent herein to grant continuity of service along with the reimbursement of the entire back wages till reinstatement of the petitioner as multipurpose Hospital Worker at Ellampillai PHC Salem District.

For Petitioner : Mr.C.V.Vijayakumar

For R1,R2 & RR5 to 7 : Mr.R.S.Selvam
(Government Advocate)

O R D E R

The order of termination dated 17.10.2018, is sought to be quashed.

2.The writ petitioner was appointed as a Contract Employee on daily wage basis to the post of Multi Purpose Hospital Worker. The writ petitioner was allowed to continue as daily wage employee and while performing his duties and responsibilities as a contract employee, the writ petitioner has committed certain serious misconducts against the patients, who all are treated in the hospital. On account of the allegations, the Competent Authorities / Medical Officer, submitted a report. Based on the report, actions were initiated and the writ petitioner was terminated from service.

3.Based on the report submitted by the Block Development Officer, actions were initiated to dispense with the service of the writ petitioner. The writ petitioner who was a daily wage worker on contract basis cannot claim that he is entitled for the enquiry. This apart, this Court is of an opinion that the Medical Officer, who filed the counter affidavit enumerated the instances as follows:

"17. It is submitted in respect of Para 10 that, Block Medical Officer, Government Primary Health Centre, Chittoor has sent a report to the Deputy Director of Health Services, Salem along with the complaint petitions received from the publics and the Medical Officer, Government Primary Health Centre, Pakkanadu, that Thiru.S.Murugan, Multipurpose Hospital Worker has misbehaved and harassed Female Patient by

name Mrs.Sudha, who came to the Government Primary Health Centre, Pakkanadu on 15.10.2018. The Deputy Director of Health Services, Salem, the 3rd respondent herein, has issued orders for enquiry on the complaints received against Thiru.S.Murugan, Multipurpose Hospital worker by constituting a committee headed by Dr.R.Shanthi, Chief Civil Surgeon, Government Primary Health Centre, Malliakarai, Salem District vide R.No.12324/E5/2018 dt:16.10.2018. The Committee has conducted the enquiry with the petitioners and public of Pakkanadu and Medical Officer and Staff of Government Primary Health Centre, Pakkanadu on 17.10.2018. Thiru.S.Murugan, Multipurpose Hospital worker, has not appeared for enquiry and he was on unauthorised absence from duty with effect from 16.10.2018. The Committee has submitted the enquiry report to the Deputy Director of Health Services, Salem on 17.10.2018, in which the misconduct of Thiru.S.Murugan, Multipurpose Hospital worker was confirmed by the committee. The Deputy Director of Health Services, Salem has verified all the relevant records and decided to accept the decision of the enquiry report of the committee. The Misconduct of Thiru.S.Murugan, Multipurpose Hospital Worker was viewed seriously and the Deputy Director of Health Services, Salem, the 3rd respondent herein has decided to terminate Thiru.S.Murugan, Multipurpose Hospital Worker from contract service in the interest of Public accordingly Thiru.S.Murugan, Multipurpose Hospital Worker, was terminated from contract service as per R.No.12324/E5/2018 dt:17.10.2018 of Deputy Director of Health Services, Salem."

4. In view of the fact that the writ petitioner was engaged as daily wage employee and had involved in certain serious allegations, based on the public complaint and based on the report of the Medical Officer, actions were initiated by the Competent Authority and the services of the writ petitioner had been ousted.

5. This being the factum of the case, the writ petitioner has not established any acceptable legal ground for the purpose of considering his case. This apart, the right of the daily wage employee is certainly limited as per the terms and conditions stipulated. The service of the writ petitioner can be dispensed with at any point of time on account of the necessity.

6. In the present case on hand, the Competent Authority namely Medical Officer concern received complaints from the public and after conducting an enquiry, Medical Officer

submitted a report. Based on the enquiry report, the service of the writ petitioner has been dispensed with and he was ousted from service.

7. Accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs.

Sd/-
Deputy Registrar(CJ Conf.)

//True Copy//

Sub Assistant Registrar

Pns/smv

To

1. The Secretary to Government,
State of Tamil Nadu,
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Chennai - 600 006.
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Government Primary Health Centre,
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Salem District

+1cc to Mr.C.V.Vijayakumar, Advocate, S.R.No.35569

+1cc to the Government Pleader, S.R.No.35811

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SSD(CO)
CS/20/05/2019



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