



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:10.04.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P(MD)No.8570 of 2019

Karuppaiah

... Petitioner

vs.

- 1.The Principal Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George, Chennai.
 - 2.The Director,
Directorate of Health and Family Welfare Department,
D.M.S.compound,
Thenampettai, Chennai - 600 006.
 - 3.The Joint Director,
Directorate of Medical and Rural Health
Services and Family Welfare Department,
Government Hospital,
Head Quarters Hospital,
Sivagangai District.
 - 4.The Medical Officer,
Government Hospital,
Singampunari,
Sivagangai District.
- ... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to permit the petitioner to discharge the regular duty viz. Hospital Worker (Out Sourcing Staff) on the basis of the representation submitted by the petitioner dated 26.03.2019.

For Petitioner	: Mr.R.Alagumani
For Respondents	: Mr.S.Angappan
	Government Advocate

ORDER

The Writ Petition is filed seeking a direction to the respondents to permit the petitioner to discharge the regular duty viz. Hospital Worker (Out Sourcing Staff), on the basis of his representation, dated 26.03.2019.



2. Heard the learned Counsel for the petitioner and the learned Government Advocate, who takes notice for the respondents. By consent, the writ petition is taken up for disposal at the admission stage itself.

WEB COPY

3. The case of the petitioner is that he was appointed as a Hospital Worker (out sourcing staff) at Government Hospital, Singampunari, Sivagangai District for monthly honorarium of Rs.990/- from 12.05.2006 and till today, he is working under the respondent Department. The grievance of the petitioner is that the similarly placed persons' services were regularized by the respondents as per the order of this Court. Hence, the petitioner made several representations and finally on 26.03.2019 seeking regularization of his service. Since no action is forthcoming, the petitioner has approached this Court by filing this Writ Petition.

4. The learned Counsel appearing for the petitioner submitted that the issue involved herein has already been decided by this Court in W.P.(MD)Nos.15529 to 15531 of 2012, dated 02.07.2014, wherein it is held as follows:

"8. In similar circumstances, this Court in W.P.Nos.30105 to 30111 of 2008, decided on 23.10.2009, has held as follows:

"3. Mr.Ajay Ghosh, learned counsel for the petitioner brought to the notice of this Court in respect of other identically placed writ petitions disposed of granting certain directions. The learned counsel for the petitioner relied upon the judgment of this Court in (P.Sithan and others Vs. State of Tamil Nadu and others made in W.P.No.28761 in batch cases dated 04.12.2008), in disposing of those cases, this Court followed the earlier order obtained by similarly placed workman. In Para-4 of the order, this Court observed as follows:

"In view of the earlier orders there will be similar order in these cases also.

These writ petitions are disposed of giving direction to the fourth respondent to give preference to the petitioners based on their earlier engagement either as Contract Drivers/Sanitary Workers/Hospital Workers/Lab Assistants while appointing any fresh candidate. The fourth respondent is directed to consider the claim of the petitioners and if they are found qualified, they should be given priority taking note of their experience. The learned counsel for the petitioners submitted that there are vacancies now available. Hence, petitioners



WEB COPY

are directed to submit their application before the fourth respondent along with the experience certificate issued by the concerned medical officers to the fourth respondent, within a period of two weeks from the date of receipt of a copy of this order. The fourth respondent is directed to consider their claims even if their names are not sponsored by the employment exchange. It is made clear that since the petitioners are already engaged through outsourcing and performed the duties either as Drivers/Sanitary Workers/Hospital Workers/Lab Assistants, further sponsorship through employment exchange is not required to be made in so far as the petitioners are concerned. Writ Petitions are disposed of on the above terms."

2. In the light of the above, a similar direction is issued in the Writ petition also. Accordingly, the Writ Petition is disposed of on the above terms. No costs."

9. Moreover, on a perusal of the impugned orders, it is apparently clear that the authority while passing the orders impugned herein, did not adduce any valid reasons and more so, without affording any opportunity of hearing to the petitioners, though already representations were made on 03.10.2012 and 05.10.2012 (made by the petitioners in W.P(MD)Nos.15529 and 15530 of 2012), in this regard. None of the impugned orders deals with any of the claim of the petitioners, which would lead to the allegation of violation of principles of natural justice.

10. Considering the over all circumstances of the case, this Court is of the view that the case of the petitioners is also squarely covered by the above said judgment of this Court in W.P.Nos.30105 to 30111 of 2008, decided on 23.10.2009 and accordingly, the impugned orders are liable to be set aside.

11. In the result, all the writ petitions are allowed and the impugned orders stand set aside and a similar direction as above, is issued to the respondents herein to consider the case of the petitioners and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order. Consequently, the connected



miscellaneous petitions are closed. No costs. "

Hence, the learned Counsel sought a similar relief in this writ petition also.

5. The learned Government Advocate appearing for the respondents submitted that the petitioner's claim would be considered by the respondents on merits, within a time frame as fixed by this Court.

6. Considering the facts and circumstances of the case and also having regard to the submissions of the learned Counsel appearing on either side, without going into the merits of the case, the respondents are directed to consider the representation of the petitioner, dated 26.03.2019, seeking regularization of his appointment and pass appropriate orders, on merits and in accordance with law and also in the light of the order passed by this Court in W.P.(MD)Nos.15529 to 15531 of 2012, dated 02.07.2014, within a period of eight weeks from the date of receipt of a copy of this order.

7. The Writ Petition stands disposed of with the above direction. No costs.

Sd/-

Assistant Registrar (P & A)

// True Copy //

Sub Assistant Registrar(CS)

ssl

To

1.The Principal Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George,
Chennai.

2.The Director,
Directorate of Health and Family Welfare Department,
D.M.S.compound,
Thenampettai,
Chennai - 600 006.

3.The Joint Director,
Directorate of Medical and Rural Health
Services and Family Welfare Department,
Government Hospital,
Head Quarters Hospital,
Sivagangai District.



4.The Medical Officer,
Government Hospital,
Singampunari,
Sivagangai District.

WEB COPY

W.P (MD) No.8570 of 2019
10.04.2019

AL (CO)

TR (09.05.2019) 5P 5C