

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 25.04.2019****CORAM**

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN**W.P(MD)Nos.8585, 8654, 8655, 8656, 8657 & 8642 of 2019**

P.Ressie ... Petitioner in WP(MD).8585 of 2019
G.VIJAYAKUMAR, ... Petitioner(s) in WP(MD). 8654/ 2019
M.VEMBU, ... Petitioner(s) in WP(MD). 8655/ 2019
T.SANTHI, ... Petitioner(s) in WP(MD). 8656/ 2019
A.RAVISINGH ... Petitioner(s) in WP(MD). 8657/ 2019

1 L.MURUGAN,
2 S.ANTHONIMUTHU,
3 M.MUTHUMARI,
4 A.GOVINDAN,
5 N.RAMALAKSHMI,
6 A.GNANAPON,
7 A.UTHANDAN,
8 S.SINGARI,
9 P.VETRIVEL
10 P.PALANIYAMMAL, ... Petitioner(s) in WP(MD). 8642/ 2019

- Vs. -

1 THE STATE OF TAMILNADU,
REP.BY ITS SECRETARY TO GOVT.,
HEALTH AND FAMILY WELFARE DEPT.,
FORT.ST.GEORGE, CHENNAI-9

2 THE DIRECTOR
INDIAN MEDICINE & HOMEOPATHY DEPT.,
ARIGNAR ANNA COMPLEX, ARUMBAKKAM,
CHENNAI - 106

3 DIRECTOR OF PUBLIC HEALTH AND PREVENTIVE MEDICINE,
HEALTH AND FAMILY WELFARE DEPT., D.M.S.COMPLEX,
THENAMPETTAI, CHENNAI-6

4 DIRECTOR OF MEDICAL RURAL
HEALTH SERVICES AND FAMILY WELFARE,
HEALTH AND FAMILY WELFARE DEPT.,
NO.359, ANNASALAI, THENAMPETTAI, CHENNAI-6

5 DISTRICT SIDDHA MEDICAL OFFICER,
INDIAN MEDICINE AND HOMEOPATHY DEPT. TENKASI,
TIRUNELVELI DT.



6 DISTRICT SIDDHA MEDICAL OFFICER,
INDIAN MEDICINE AND HOMEOPATHY DEPT.,
VIRUDHUNAGAR DT.

7 DISTRICT SIDDHA MEDICAL OFFICER,
INDIAN MEDICINE AND HOMEOPATHY DEPT.,
TUTICORIN DT.

... Respondents in WP(md).8642 of 2019

1.The State of Tamil Nadu,
represented by its Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai - 600 009.

2.The Director,
Indian Medicine and Homeopathy Department,
Arignar Anna Complex,
Arumbakkam,
Chennai - 600 106.

3.Director of Public Health and Preventive Medicine,
Health and Family Welfare Department,
D.M.S. Complex,
Thenampettai,
Chennai - 6.

4.Director of Medical Rural Health Services and Family Welfare,
Health and Family Welfare Department,
No.359, Anna Salai,
Thenampettai,
Chennai - 6.

5.District Siddha Medical Officer,
Indian Medicine and Homeopathy Department,
Kanyakumari,
Kanyakumari District. ... Respondents in WP(md).8585, 8655,
8656, 8657 of 2019

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records on the file of the fifth respondent vide proceedings in Na.Ka.No.641/A1/2018, dated 17.12.2018 and quash the same as illegal as devoid of merits and direct the respondents to regularize petitioner's service as a hospital servant or primary health centre servant in the existing vacancies on par with similarly placed NRHM employees absorbed and regularized services as per the direction of the Director of Indian Medicine order passed by the District Siddha Medical Officer, Nagapattinam, vide Na.Ka.No.855/Ni 1c/2014, dated 05.12.2014 or in hospitals run by health and family welfare Department.



For Petitioners : Mr.Raja.Karthikeyan
For RR 1 to 5 : Mr.V.Anand,
in all cases Government Advocate.
Except WP(MD).8642/18
& for R1 to R7 in
WP(MD).8642/19

COMMON ORDER

W.P(MD)Nos.8585 and 8654 to 8657 of 2019 have been filed praying to quash the impugned orders passed by the fifth respondent, dated 17.12.2018 and consequently to direct the respondents to regularize the petitioners' services in the existing vacancies, as per the direction of the Director of Indian Medicine order as well as the passed by the District Siddha Medical Officer, Nagapattinam, dated 05.12.2014.

2.W.P(MD)No.8642 of 2019 has been filed praying to direct the respondents to regularize the petitioners' service in the existing vacancies, as per the direction of the Director of Indian Medicine as well as the order passed by the District Siddha Medical Officer, Nagapattinam, dated 05.12.2014.

3.In all these Writ Petitions, the petitioners were appointed as part time Multi-purpose workers under the National Rural Health Mission, as per the proceedings of the District Siddha Medical Officer in various Districts. Initially, the petitioners were directed to work for three days per week and thereafter, they have been directed to work for six days per week and they have been working with the respondents as Multi-purpose workers for all these years. However, their services have not been regularized. Seeking regularization of service, earlier, the petitioners have filed a batch of Writ Petitions in W.P(MD)Nos.14210 to 14219 of 2018 to consider their representations and this Court, by common order, dated 04.07.2018, disposed of the Writ Petitions directing the respondents to consider their representations. Subsequent to the order passed by this Court, the fifth respondent rejected the claim of the petitioners by passing the impugned orders. Challenging the same, the petitioners have filed the present Writ Petitions.

4.The learned counsel appearing for the petitioners submitted that the issue involved in these writ petitions is squarely covered by the decision of this Court in **WP(MD)Nos.15529 to 15531 of 2012, dated 02.07.2014 [S.Rajendran Vs. The State of Tamil Nadu, Rep. by its Secretary, Health and Family Welfare Department, Fort St. George, Chennai]** and the relevant portions whereof read thus:

"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



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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 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



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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."

5.The above submission has not been seriously objected to by the learned Government Advocate appearing for the respondents.

6.In view of the above decision, this Court is of the view that the impugned orders are liable to be quashed. Accordingly, the impugned orders are quashed and these writ petitions are allowed and a similar direction as above, is issued directing the respondents to consider the case of the petitioners and pass appropriate orders, after affording opportunity of hearing to the petitioners, within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

Sub Assistant Registrar (CS)

ps

To

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai - 600 009.



- 2.The Director,
Indian Medicine and Homeopathy Department,
Arignar Anna Complex,
Arumbakkam,
Chennai - 600 106.
- 3.Director of Public Health and Preventive Medicine,
Health and Family Welfare Department,
D.M.S. Complex,
Thenampettai,
Chennai - 6.
- 4.Director of Medical Rural Health Services and Family Welfare,
Health and Family Welfare Department,
No.359, Anna Salai,
Thenampettai,
Chennai - 6.
- 5.The District Siddha Medical Officer,
Indian Medicine and Homeopathy Department,
Kanyakumari,
Kanyakumari District.
- 6.The District Siddha Medical Officer,
Indian Medicine and Homeopathy Department,
Virudhunagar District.
- 7.The District Siddha Medical Officer,
Indian Medicine and Homeopathy Department,
Tuticorin.

+6CC TO MR.RAJA.KARTHIKEYAN, Advocate Sr. No.63562 TO 63567
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 63359 & 63358

**W.P(MD)Nos.8585, 8654, 8655,
8656, 8657 & 8642 of 2019
25.04.2019**

MT(CO)
TR (31.05.2019) 6P 15C