



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.07.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P (MD) No.14904 of 2015

Dr.V.M.Mohanasundaram

... Petitioner

Vs

1.The Director of Public Health &
Preventive Medicine,
Chennai-600 006.

2.The Director of Medical and
Rural Health Services (ESI),
Office of the Medical and Rural
Health Services (ESI),
Chennai-600 006.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents herein to consider the representation of the petitioner dated 17.7.2015 requesting reinstatement of the petitioner as Medical Officer in the cadre of Assistant Surgeon within the time stipulated by this Court.

For Petitioner : Mr.P.Mahendran

For Respondents : Mr.K.Mu.Muthu

Additional Government Pleader

ORDER

The writ petitioner was appointed on temporary basis under Rule 10(a)(i) of the General Rule for Tamil Nadu State and Subordinate Services Rules as Assistant Surgeon under Category 2 of Class-I of Tamil Nadu Medical Service. Admittedly, the writ petitioner was appointed on temporary basis under Rule 10(a)(i) on condition that the appointment is purely on temporary and he will have no right to claim for further appointment by virtue of the temporary appointment.

2. The writ petitioner was terminated from service in proceedings dated 7.3.2014 under Rule 10(a)(v) of the General Rule for Tamil Nadu State and Subordinate Services Rules. When the temporary appointments are made under Rule 10(a)(i) then the competent authorities are empowered to terminate the employees under 10(a)(v) of the General Rule for Tamil Nadu State and Subordinate Services Rules.



3.The learned Additional Government Pleader appearing on behalf of the respondents states that the writ petitioner was facing the criminal case in Crime No.61 of 2013 under Section 498 (A), 294(b), 506(i) of IPC r/w Section 4 of Tamil Nadu Prevention of Women Harassment Act and the charge sheet has been filed in C.C.No.36 of 2014 on the file of the learned Judicial Magistrate, Thirumangalam. On account of the fact that the writ petitioner was facing the criminal case, he was terminated from service based on the unsatisfactory conduct.

4.May that it be, the writ petitioner was appointed on temporary basis under 10(a)(i) and therefore, he cannot claim any right over the appointment for further continuance. If at all the writ petitioner was selected and appointed in a sanctioned post by undergoing process of selection then alone, the case has to be considered.

5. The learned Additional Government Pleader appearing on behalf of the respondents made a submission as per the counter that the writ petitioner has appeared for the Special Qualifying Examination in the year 2013 conducted by the Tamil Nadu Public Service Commission, which was also withheld by the commission for not attending the oral test, Government have been requested to issue necessary orders on his request. The same is under examination of the Government. If at all the case of the writ petitioner is considered by the Government based on the special qualifying examinations, then the writ petitioner is at liberty to approach the appropriate authority for redressal of his grievance. However, in respect of the writ petition, the same cannot be considered in view of the fact that the writ petitioner was appointed on temporary basis and he was terminated from service in the year 2014. Mere acquittal in the criminal case cannot be a ground for reinstatement. Under these circumstances, the writ petitioner shall pursue his remedy based on the special qualifying examinations, if any exists.

6.With these clarifications, the writ petition stands disposed of.

Sd/-

Assistant Registrar(CS-III)

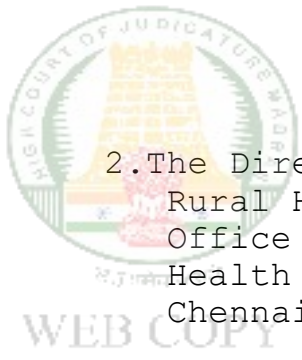
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Sub Assistant Registrar(CS)

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To

1.The Director of Public Health &
<https://hcservices.ecourts.gov.in/hcservices/>
Preventive Medicine, Chennai-600 006.



2.The Director of Medical and
Rural Health Services (ESI),
Office of the Medical and Rural
Health Services (ESI),
Chennai-600 006.

+1CC TO MR.P.MAHENDRAN, Advocate Sr. No.72795

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.72807

W.P(MD)No.14904 of 2015

01.07.2019

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TR (11.07.2019) 3P 5C