



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.16282 of 2014

and

W.M.P. (MD) No.18617 of 2018

S.Subalakshmi

... Petitioner

vs.

1. The Chief Engineer / Personnel

No.144, Anna Salai

TANGEDCO, Chennai-2

2. The Superintending Engineer

Generation Circle, TANGEDCO

Anna Building, Maharaja Nagar

Tirunelveli-11, Tirunelveli District

3. The Executive Engineer

Power Houses, TANGEDCO

Pabanasam Project

Pabanasam, Tirunelveli District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus to call for the records pertaining to the impugned order in letter No.05124/255/Ni.Pi.1/E.Ni.U/Ko.Mu.Tha.Pi.Manu/14, dated 09.05.2014 on the file of the respondent No.2 and quash the same as illegal and consequently to direct the respondents Nos.2 and 3 to regularize the petitioner in the post of Pharmacist at Servalar Dispensary within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents: Mr.G.Kasinathadurai

O R D E R

The order relieving the writ petitioner from service is under challenge in the present writ petition.

2. The learned counsel for the writ petitioner states that the writ petitioner was engaged as a Pharmacist, in Servalar Dispensary, during the year 2005, on contract basis and she was continuing as such for a considerable period. However, the respondents had relieved the writ petitioner, without providing any opportunity and without any adverse remarks against her. Thus, the impugned actions of the respondents are to be declared as null and void.



3. The learned counsel for the writ petitioner further states that the period of contract was not expired and it was due to expire on 15.05.2014. However, the respondents relieved the writ petitioner prior to the expiry of the contract period.

4. The order of appointment of the writ petitioner dated 21.02.2005, states that the writ petitioner was appointed on contract basis and on certain terms and conditions. The terms and conditions are narrated as under:

- "i. The service will be for a period of one year at the rate of Rs.150/- (Rupees one hundred and fifty only) per day.*
- ii. The professional service will be liable for termination in the middle of the said one year period of the works carried out are not satisfied.*
- iii. He/She shall be at the dispensary on all the working days of the Board between 8.00 A.M. to 5.00 P.M.*
- iv. He/She shall be ready to attend the emergency situation on call on all days (including Holidays).*
- v. Rendering of professional para Medical Services will not confer any right for permanent employment in Tamil Nadu Electricity Board*
- vi. He/She should attend the Certificates/Qualification verification at own cost arrangement.*
- vii. He/She should make own arrangement for accommodation.*
- viii. He/She shall accompany the medical team to all the designated dispensaries of the circle at the dates decided by the undersigned. Transport facility for such travels will be arranged by the Department."*

5. The terms and conditions of the contract unambiguously state that if the works are not satisfied, the employee concerned is liable to be terminated from service even during the middle of contract period.

6. The learned Additional Government Pleader appearing for the respondents states that the initial appointment of the writ petitioner was on contract basis and the terms and conditions of the contract show that the writ petitioner is liable to be terminated from service even in the middle of contract period, if the works are not satisfied. Paragraph No.5 of the counter affidavit filed by the second respondent is extracted hereunder:

<https://hcservices.ecourts.gov.in/hcservices/>. The petitioner was appointed on 10.03.2005 for the period of one year only. After that upto



2009 the petitioner duty was renewed on yearly basis. The contract period of one year ended on 10.03.2010. She was appointed on 23.03.2010 for a contract period of one year. The said period also expired on 22.03.2011. She was given a contract service of one year from 12.04.2011 and it expired on 11.04.2012. She was appointed a period of one year on 16.05.2012 and the contract period ended on 15.05.2013. She was appointed for one year on 21.05.2013 but her service was dispensed with on 06.03.2014 as a permanent employee was posted."

7. This Court is of the considered opinion that admittedly, the writ petitioner was appointed as Pharmacist on contract basis and the contract period was being renewed periodically every year. Though the last tenure was due to expire on 15.05.2014, the writ petitioner was relieved from service prior to the expiry of the contract period, on account of the fact that the permanent employee of the Department was posted to function as Pharmacist. In view of the posting of permanent employee, the contract employee was relieved from service.

8. This Court is of the considered opinion that at this length of time, it is not desirable to consider the case of the writ petitioner as the initial appointment of the writ petitioner was on contract basis and even as per the statement made by the learned counsel for the writ petitioner, the last period of contract expired on 15.05.2014 and now, almost five years lapsed. This apart, the permanent employee was appointed in the post of Pharmacist in the particular place. Under these circumstances, the case of the writ petitioner shall be considered, if at all any decision is taken by the authority concerned to engage persons on contract basis for performing certain emergency duties in the organization. However, the permanent appointments are to be made only by following the Recruitment Rules in force.

9. With these observations, the writ petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

Krk

+ 1 CC TO Mr.T.Lajapathi Roy, ADVOCATE IN SR No.71367

+ 1 CC TO Mr.G.Kasinathadurai, ADVOCATE IN SR No.71166

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