



WEB COPY

W.A.(MD)No.1135 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2019

CORAM:

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**

and

**THE HONOURABLE MRS.JUSTICE R.THARANI**

**W.A. (MD)No.1135 of 2019**

and

**C.M.P (MD)Nos.10051 and 10053 of 2019**

S.Thiruppathi

... Appellant/Petitioner

Vs.

1. The State of Tamil Nadu,  
Rep. by its Secretary to Government,  
Municipal Administration and Water  
Supply Department,  
St. George Fort,  
Chennai - 600 009.

2. The Commissioner of Municipal Administration,  
Ezhilagam, Annex VI Floor,  
Chepauk,  
Chennai - 600 005.

3. The Commissioner,  
Madurai Municipal Corporation,  
Madurai.

... Respondents/Respondents

**PRAYER:** Writ Appeal is filed under Clause 15 of Letters Patent, to set aside the order dated 17.06.2019 passed in W.P(MD)No.11427 of 2014.

**Prayer in WP(MD). 11427/ 2014 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Order passed by the 1st respondent in his Proceedings Letter (D) No. 222/MC-4/2013 dated 05.06.2014 and consequential order passed by the 3rd Respondent in his Proceedings in Ma. Ni10/19295/2014 dated 26.06.2014 and quash the same as illegal and consequentially to direct the respondents to regularize the service of the eptioner taking into account of the 8 1/2 years continuous service as Pharmacist (Allopathy) within the period that may be stipulated by this Honourable Court.

For Appellant : Mr.Veera Kathiravan,  
Senior Counsel for  
Mr.c.Prithviraj



For R-1 & R-2 : Mr.A.Muthukaruppan,  
Additional Government Pleader  
For R-3 : Mr.T.S.Mohammed Mohideen

**JUDGMENT**

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[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.Veera Kathiravan, learned Senior Counsel for Mr.C.Prithviraj, learned counsel for the appellant, Mr.A.Muthukaruppan, learned Additional Government Pleader for the respondents 1 and 2 and Mr.T.S.Mohammed Mohideen, learned standing counsel for the third respondent.

2. This writ appeal is directed against the common order passed by the learned Single Bench in W.P(MD)No.11427 of 2014 etc. batch, dated 17.06.2019. In the writ petition(MD)No.11427 of 2014, the petitioner sought for issuance of a Writ of Certiorarified Mandamus to quash the proceedings issued by the Secretary, Municipal Administration and Water Supply Department, dated 05.06.2014 and to direct the third respondent corporation to regularise the services of the appellant in the Post of Pharmacist(Allopathy).

3. The writ petition was dismissed by the learned Single Bench by the impugned order holding that there is no vested right for the appellant to seek for absorption and in this regard, several decisions of the Honourable Supreme Court were referred to including the decision in the case of *Secretary, State of Karnataka and others vs. Umadevi and others* reported in (2006) 4 SCC (1).

4. The learned Senior Counsel for the appellant contended that the appellant's entry into service is not a back door entry and he was appointed pursuant to the public notification issued calling for applications from eligible candidates for various Posts and the petitioner applied for the Post of Pharmacist and after his suitability was examined by the appointment committee, he was appointed as Pharmacist. Thus, it is the submission of the learned Senior Counsel that this factor should have been taken into consideration and it should have been held that the appellant had undergone the process of recruitment. Further, it is contended by the learned Senior Counsel that the concerned authorities have made recommendations to the Government to regularise the services of the appellant.

5. On a perusal of the notification issued by the third respondent corporation dated 15.06.2005, we find that the notification was for recruitment on contract basis. The notification clearly stipulates the tenure of contract, which is for one year initially and if both agree, it is extendable for another two years. Thus, as per the terms of the notification, the



appointment was purely temporary/contractual and the tenure has already been fixed for one year. Presumably, because of the interim order granted in the writ petition, the petitioner was continued in service for a certain length of time. But, beyond 2014, the petitioner was no longer in service since the tenure is for one year initially and is extendable for another two years only if both parties agree ie., the third respondent corporation and the appellant. In the instant case, it is clear that there is no such agreement made by the third respondent corporation. Therefore, we are of the clear view that the services of the appellant cannot be regularised as it was a contractual appointment for the tenure of one year on a consolidated basis.

6. In the result, the writ appeal fails and the same is dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS )

To

1.The State of Tamil Nadu,  
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2.The Commissioner of Municipal Administration,  
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Chennai - 600 005.

+1 CC to Mr.T.S.MOHAMED MOHIDHEEN, Advocate ( SR-95771[F] dated 04/11/2019 )

+1 CC to SPL GP ( SR-96089[F] dated 05/11/2019 )

**JUDGMENT MADE IN**  
**W.A. (MD)No.1135 of 2019**  
**04.11.2019**

**pm**

MK (15.11.2019) 3P 5C