



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2019

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THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAMWP(MD).No.844 of 2013 and
MP(MD).Nos.1 and 2 of 2013

WEB COPY

R. Sudha

... Petitioner

Vs.

1.The Director of Public Health and Preventive Medicine,
DMS Compound, Teynampet, Chennai - 600 006.2.The Deputy Director of Health Services,
(Sivakasi Division),
Sivakasi, Virudhunagar District.

... Respondents

Prayer : This Writ Petition is filed under article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 2nd respondent vide his proceedings in Na.Ka.No.1084/C2/2007 served on 09.01.2013 and quash the same and consequently, direct the respondents to reinstate the petitioner and to regularise her service with all consequential benefits in the post of Lab Assistant at Government Primary Health Centre, Uppathur, Virudhunagar District.

For Petitioner : Mr.R.Anand

For respondents : Mr.S.Dhayalan

Government Advocate

ORDER

The appointment order of the Writ Petitioner which is filed along with the Writ Petition, states that the Writ Petitioner was appointed as contract employee as Lab Assistant at Primary Health Centre. The impugned order passed by the Deputy Director of Health Services, Sivakasi vide proceedings dated 09.01.2013 states that as per the instructions and directions issued by the Head of the Department, the employees, who were selected and appointed on contract basis (out sourcing), are terminated in a phased manner as these employees were irregular and un-authorized absent from duty for several days. In other words, the authorities of the Health Department found that these contract employees appointed through out-sourcing agency were performing their duties without satisfaction of the competent authority and they are not only irregular, but also, they remained absent from duty. But, in order to settle these issues and to maintain the Government Hospitals in the manner prescribed under law, the authorities initiated steps to terminate these employees who were appointed through out-sourcing agent.



2. This Court is of the considered opinion that the contract employees cannot seek the benefit of regularization and they are liable to be terminated from service, if their services are not satisfactory.

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3. The learned counsel appearing for the petitioner states that no notice or opportunity was given to the petitioner before issuing the impugned order of termination.

4. The learned Government Advocate appearing for the respondents disputes the contention by saying that the writ petitioner was appointed through out-sourcing agency and she was not even appointed by the competent authority.

5. Be that as it may be, this Court is of the view that, as this petitioner was terminated from the contract service in the year 2013, after lapse of six years, remanding the matter back to the competent authority for the purpose of issuing show cause notice or affording an opportunity would not serve any purpose. If the matter is remanded to the authorities to issue a show cause notice and to give an opportunity to the petitioner to afford her explanation, as she was not in service for more than six years, her service could not be regularized, in accordance with recruitment rules in force. Thus, while remanding the matter, the Court should consider whether any purpose would be served in the event of remanding the matter and mechanical approach in remanding the matter is to be avoided by the Courts also.

6. In the present case, admittedly, the petitioner was appointed through out-sourcing agent on contract basis and now, the Government Service cannot be provided without undergoing the selection process. Now all appointments are to be made only in accordance with recruitment Rules and therefore, the petitioner cannot be reinstated in the service. This being the factum, the claim of the petitioner deserves no merits for consideration.

7. This Writ Petition is dismissed accordingly. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (P&A)

/ True Copy /

Sub Assistant Registrar (CS-)



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To

1.The Director of Public Health and Preventive Medicine,
DMS Compound,
Teynampet,
Chennai - 600 006.

2.The Deputy Director of Health Services,
(Sivakasi Division),
Sivakasi,
Virudhunagar District.

+1 CC to M/s.SPL GP (SR-67587[F] dated 10/06/2019)

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ES/04.07.2019/3P/4C