



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.12.2020

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P. (MD) No.17949 of 2020

and

W.M.P. (MD) No.14958 of 2020

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M.Nagarathinam

...Petitioner

Vs

1.The Accountant General,
Office of the Accountant General (A&E),
361, Anna Salai,
Chennai 600 018.

2.The Director of Public Health and
Preventive Medicine,
DMS, Teynampet,
Chennai 600 086.

3.The Deputy Director of Health Services,
Visvanathapuram,
Madurai 625 014.

4.The Block Medical Officer,
Government Primary Health Centre,
Elumalai,
Madurai District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to regularize the services of the petitioner's husband, Late.R.S.Murugesan, in the post of Hospital Worker (Cook and Steamer/Samayalar and Neeralar) in the department of Public Health from 15.03.1979 till his demise on 14.04.2010 and accordingly pay all service, monetary and attendant benefits including salary arrears and also Family Pension to the petitioner within a time period to be fixed by this Court.

For Petitioner	: Mr.N.Dilip Kumar
For R1	: Mrs.S.Mahalakshmi
For R2 to R4	: Mr.K.P.Narayanakumar Special Government Pleader

ORDER

This Writ Petition is filed to direct the respondents to regularize the services of the petitioner's husband, namely, Late.R.S.Murugesan, in the post of Hospital Worker (Cook and Steamer/Samayalar and Neeralar) from 15.03.1979 and to pay all



service, monetary and attendant benefits including salary arrears and also family pension to the petitioner.

2.By consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

3.The learned counsel appearing for the petitioner would submit that the petitioner's husband was working as Hospital Worker at several stations on temporary basis from 13.03.1979. The petitioner's husband died on 14.04.2010, while he was in service and during the life time, he has made several representations to the respondents requesting them to regularize his service, but the respondents have not taken any steps to regularize the service of the petitioner's husband.

4.The learned counsel would further submit that it is for the respondents to regularize the service of the petitioner's husband from 15.03.1979 to till the date of his demise ie., on 14.04.2010 and to pay all service, monetary and attendant benefits including salary arrears and also family pension to the petitioner, for which, the petitioner has made a representation dated 16.11.2020 to the respondents and the same has not been considered by the respondents so far. Hence, the petitioner has approached this Court by way of filing the present writ petition for passing appropriate orders.

5.Mr.K.P.Narayanakumar, learned Special Government Pleader appearing for the respondents 2 to 4 would fairly submit that the petitioner's request for regularizing the service of her husband is under progress. He would further submit that the petitioner's husband was working as a Hospital Worker on temporary basis and was receiving the salary only in D-Grade.

6.The learned Special Government Pleader would further submit that on the basis of the scheme available to the persons, those who are receiving the salary in D-Grade, the 3rd respondent, by proceedings dated 22.06.2020, recommended the 1st respondent to pay the pensionary benefits of the petitioner's husband to the petitioner, but the 1st respondent, by proceedings dated 10.08.2020, has returned the same with one of the quarries that the deceased servant was posted against the leave vacancy with effect from 15.03.1979 and was not regularized to the said post till the date of his death and the pay fixation was not regularized and periodical increments year wise not admitted and also leave account is not maintained in the SR, for which, the legal heir of the deceased is not entitled for admitting the family pension. He would further submit that the petitioner's request for regularizing the service of her husband would be considered on merits and in accordance with law.



7. Heard the learned counsel on either side and perused the materials available on record.

8. Admittedly, the petitioner's husband was working as a Hospital Worker in the 4th respondent hospital on temporary basis and was receiving the salary in D-Grade. The petitioner's husband died on 14.04.2010 and during the life time, he made several representations to the respondents for regularization of his service as he is entitled for the same, but the same has not been considered by the respondents.

9. Due to the failure on the part of the respondents in considering the petitioner's husband representations, the petitioner's husband was working on temporary basis for a period of more than 31 years and was receiving the salary in D-Grade. Thus, this Court is of the view that it is for the respondents to regularize the service of the petitioner's husband, to pay all the arrears of salary, if any, and to provide suitable pension to the petitioner and in this regard, the petitioner has already made a representation dated 16.11.2020 to the respondents and the same is pending till date without any progress. Further, this Court hopes that if the respondents dispose the petitioner's representation dated 16.11.2020, the petitioner's husband service will be regularized and thereby, the petitioner will get all the arrears of salary, if any and the pensionary benefits payable to her.

10. In view of the foregoing discussions, this Court is inclined to pass the following direction:-

the 2nd respondent is directed to consider the petitioner's representation dated 16.11.2020 and dispose of the same, by taking into consideration of the observations made in this writ petition, within a period of twelve weeks from the date of receipt of a copy of this order;

11. With the above direction, the Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

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/ /2020

Sub Assistant Registrar (CS)



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Accountant General,
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3.The Deputy Director of Health Services,
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4.The Block Medical Officer,
Government Primary Health Centre,
Elumalai,
Madurai District.

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-24747[F] dated 09/12/2020)

+1 CC to SGP (SR-24929[F] dated 10/12/2020)

W.P.(MD) No.17949 of 2020

08.12.2020

MJ(CO)
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