



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.22636 of 2021  
(Through Video Conferencing)

G.Arumugam

... Petitioner

Vs.

1.The Secretary to Health & Family  
Welfare Department,  
Fort St.George, Chennai - 9.

2.The Director of Medical and Rural  
Health Services,  
DMS Complex,  
Chennai - 600 006.

3.The Director of Medical Education,  
Kilpauk, Chennai - 600 010.

4.The Dean,  
Government Medical College Hospital,  
Asaripallam, Kanyakumari District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus, to direct the 3<sup>rd</sup> and 4<sup>th</sup> respondents to give preference to the petitioner based on his earlier engagement and 4<sup>th</sup> respondent's recommendation dated 24.06.2009 while appointing any fresh candidates to the posts of hospital worker or sanitary worker in the available and arising sanctioned vacancies either in 4<sup>th</sup> respondent Hospital or in any other Government Hospital under the control of 4<sup>th</sup> respondent.

For Petitioner : Mr.P.L.Thirumoorthy

Respondents : Mr.L.S.M.Hasan Fizal  
Government Advocate



## O R D E R

This is the 3<sup>rd</sup> round of litigation by the petitioner before this Court. Earlier the petitioner had filed the writ petition in 2009 which came to be disposed on 18.04.2009. Thereafter, the petitioner had filed another writ petition before the Hon'ble Madurai Bench of this Court in W.P.(MD).No.2555 of 2015 which also came to be disposed by an order dated 26.02.2015.

2.It is the case of the petitioner that the petitioner was appointed as a hospital worker on daily wage basis. The 4<sup>th</sup> respondent has recommended for regularization/appointment of the petitioner.

3.The learned counsel for the petitioner submits that as of now there are about 14 vacancies. It is therefore submitted that considering the fact that the petitioner has been working on daily wage basis with the 4<sup>th</sup> respondent hospital, the respondents may be directed to appoint the petitioner either as a sanitary worker as against the sanctioned vacancies in the 4<sup>th</sup> respondent hospital or any other Government Hospital under the control of the 4<sup>th</sup> respondent.

4.The learned counsel for the petitioner has placed reliance on the decision of this Court rendered in W.P.No.29702 of 2012 vide order dated 01.08.2018 wherein the Court had considered the plight of similarly placed persons and has held as under:-

'10. In view of the above, this Court gives the following direction as given in other cases,

"These writ petitions are disposed of giving direction to the fourth respondent to give preference to the petitioners based on their earlier engagement either as Contract Drivers/Sanitary Workers/Hospital Workers/Lab Assistants while appointing any fresh candidate. The fourth respondent is directed to consider the claim of the petitioners and if they are found qualified, they should be given priority taking note of their experience. The learned counsel for the petitioners submitted that there are vacancies now available. Hence, petitioners are directed to submit their application before the fourth respondent along with the experience certificate issued by the concerned medical officers to the fourth respondent, within a



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period of two weeks from the date of receipt of a copy of this order. The fourth respondent is directed to consider their claims even if their names are not sponsored by the employment exchange. It is made clear that since the petitioners are already engaged through outsourcing and performed the duties either as Drivers/Sanitary Workers/Hospital Workers/Lab Assistants, further sponsorship through employment exchange is not required to be made in so far as the petitioners are concerned."

5.The learned counsel for the petitioner further submits that the petitioner has sent a representations dated 20.07.2021 and 21.08.2021 to the 3<sup>rd</sup> respondent to pass suitable orders for appointing the petitioner which have not evoked any response from the 3<sup>rd</sup> respondent. He therefore prays for a direction to the 3<sup>rd</sup> and 4<sup>th</sup> respondents to give preference to the petitioner based on his earlier engagement with the 4<sup>th</sup> respondent in one of the capacity based on the qualification.

6.Appearing on behalf of the respondent, the learned Government Advocate for the respondents submits that though the 4<sup>th</sup> respondent has recommended for regularising the service of the petitioner as early as 24.06.2009, it is submitted that such appointment cannot be made contrary to the decision of the Hon'ble Supreme Court. It is further submitted that whether the vacancies exists or not it is a matter to be determined by the respondents and therefore, the writ petition is devoid of merits.

7.Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the order passed by this Court in the petitioner's own case and the recommendation dated 24.06.2009 of the 4<sup>th</sup> respondent recommending the regularization of the petitioner.

8.This Court has already passed an order in W.P.No.29702 of 2012 on 01.08.2018, the relevant portion of the order which has been already extracted above in this order. The representations dated 20.07.2021 and 21.08.2021 therefore deserves to be considered and disposed on merits and in accordance with law.

9.Accordingly, this writ petition is disposed by directing the 4<sup>th</sup> respondent to pass appropriate orders on the representations of the petitioner dated 20.07.2021 and 21.08.2021



within a period of eight weeks from the date of receipt of a copy of this order. While passing such order, the respondent shall also consider the order of this Court in W.P.No.29702 of 2012 vide order dated 01.08.2018. No costs.

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Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

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To

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Welfare Department,  
Fort St.George, Chennai - 9.

2.The Director of Medical and Rural  
Health Services,  
DMS Complex,  
Chennai - 600 006.

3.The Director of Medical Education,  
Kilpauk, Chennai - 600 010.

4.The Dean, Government Medical College Hospital,  
Asaripallam, Kanyakumari District.

+lcc to Mr.P.I.Thirumoorthy, Advocate SR.No.54477  
+lcc to the Government Pleader, SR.No.55377

W.P.No.22636 of 2021

SPD(CO)  
CB(02/12/2021)