



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2022

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.27134 of 2010
and M.P.No.1 of 2010

Dr.R.Sivasakthivelan

...Petitioner

Vs.

The Principal Secretary
and Commissioner of Indian Medicine,
Directorate of Indian Medicine and Homeopathy,
Chennai - 106.

...Respondent

PRAYER:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the proceedings of the respondent in Ref.No.5565/E1/2/2009 dated 23.09.2010 (read by the petitioner on 10.10.2010) and quash the same and consequently direct the respondent to reinstate the petitioner back into service.

For Petitioner : Mr.N.Saravanan

For Respondent : M/s.E.Renganayaki
Additional Government Pleader

O R D E R

This writ petition is filed to issue a Writ of Certiorarified Mandamus, calling for the proceedings of the respondent in Ref.No.5565/E1/2/2009 dated 23.09.2010 and quash the same and consequently to direct the respondent to reinstate the petitioner back into service.

2. The petitioner is a qualified Siddha Doctor and was engaged under NHRM Scheme on contract basis for a period of 11 months by an order dated 25.11.2009 and he joined his duty on 02.12.2009. The petitioner applied for leave for 25 days from 01.03.2010 and he kept on continuing his leave even thereafter and stayed away from duty. According to the petitioner, he has been sending applications for renewing his leave and finally on 25.09.2010, he submitted a fitness certificate. Without permitting him to rejoin duty, an impugned order was served on him, dated 23.09.2010. According to the petitioner, he met with an accident and only because of that he was not well and



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he was not reporting for duty. The Authorities ought to have permitted him to join duty and the termination is punitive in nature. He would further submit that the scheme is still in existence and there is requirement of hands and given an opportunity the petitioner is ready and willing to rejoin duty with the respondent.

3. Per contra, the learned Additional Government Pleader would submit that immediately after his appointment though the petitioner initially applied for leave for 25 days alone and thereafter without caring to contact the higher officials or getting any leave sanctioned, unilaterally, remained absent from the duty. Mere sending of periodical leave applications or representations cannot serve the purpose. He is a contract employee engaged for only 11 months and he is not entitled to take such long leave. Further, he did not submit any proof to show the accident or medical incapacity. Considering the fact that he is only a contract employee and the order of termination of service is neither punitive nor it will be a bar for entering in the Government services. No stigma whatsoever is attached to the said order. Therefore, the petitioner being a contract employee there is no question of reinstatement in service at this point of time.

4. I have heard the rival submissions on behalf of both sides and perused the material records of this case.

5. A perusal of the impugned order dated 23.09.2010 clearly shows that the petitioner was engaged in a scheme that too on contract basis and he is terminated without any stigma. The termination was done because the petitioner did not report for duty. Mere sending of unilateral leave applications cannot serve the cause of the petitioner. Therefore, in view of the long absence of the petitioner, the respondent had rightly passed the order of termination as he was only a contract employee and the petitioner has no right to demand any enquiry whatsoever as it is a case of termination simpliciter and not based on misconduct. The petitioner was only engaged as a consultant on contract basis in a scheme made and therefore he has no right to claim the reinstatement in his service and there is no ground to interfere in the impugned order.

6. Therefore, this writ petition is without any merits and stands dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-IV)

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To

The Principal Secretary
and Commissioner of Indian Medicine,
Directorate of Indian Medicine and Homeopathy,
Chennai - 106.

+lcc to Mr.N.Balamuralikrishnan, Advocate SR. No. 25879
+lcc to Government Pleader SR. No. 25916

W.P.No.27134 of 2010
and M.P.No.1 of 2010

SVI (CO)
PR (29/04/2022)