



W.P.(MD)Nos.7091 and 7614 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.(MD)Nos.7091 and 7614 of 2020
W.M.P(MD).Nos.6529 and 7110 of 2020**

S.Lakshmi ... Petitioner in W.P(MD).No7091 of 2020
Valarmani ...Petitioner in W.P(MD).No.7614 of 2020

Vs.

1. The State of Tamil Nadu
Rep.by its Secretary,
Department of Health and Family Welfare,
Fort St.George, Chennai-600 009.
- 2.The Director,
Public Health and Preventive Medicine,
DMS Complex,
Chennai.
- 3.The Joint Director,
Department of Health and Preventive Medicine,
Collectorate Complex,
Theni District.



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4.The Block Medical Officer,
Government Primary Health Centre,
Odaipatti,
Uthamapalayam Taluk,
Theni District.

5.The Medical Officer,
Government Primary Health Centre,
Kuppanasaripatty,
Uthamapalayam Taluk,
Theni District.

... Respondents

COMMON PRAYER : Petitions filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the proceedings of the 3rd respondent in Na.Ka.No.4258/2019/Aa5 dated 14.02.2020 and quash the same as illegal and unconstitutional and consequently direct the respondents herein to regularize the petitioner's services for the post of Female Nursing Assistant from the date of the petitioners' appointment dated 25.09.2006 as sanitary workers with all monetary and service benefits.

In both petitions

For Petitioners : Mr.R.Rajaraman

For Respondents : Ms.K.Christy Theboral
Additional Government Pleader



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COMMON ORDER

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These Writ Petitions have been filed to call for the records pertaining to the proceedings of the 3rd respondent in Na.Ka.No. 4258/2019/Aa5 dated 14.02.2020, quash the same as illegal and unconstitutional and direct the respondents herein to regularize the petitioners' services for the post of Female Nursing Assistant from the date of the petitioners' appointment dated 25.09.2006 as sanitary workers with all monetary and service benefits.

2. The case of the petitioners is that the petitioners belong to Schedule Caste community and they were appointed as Sanitary Worker in the fourth respondent Government Primary Health Centre on consolidated pay for a sum of Rs.1000/- per month and on completion of six years, Rs.1,500/- was paid to them. Their names were sponsored by the District Employment Office, Theni and based on the said sponsor, the petitioners were appointed on consolidated pay. However, their services were not regularised. Hence, the petitioners made representations on various dates for



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regularisation of their services. However, no order was passed. Hence, the petitioners have filed writ petitions in W.P(MD).Nos.11295 and 11296 of 2019 and this Court, on 30.04.2019, has issued a direction to the respondents to consider the representations of the petitioners and pass appropriate orders. However, the respondents have mechanically passed the impugned order without knowing the fact in proper perspective. Challenging the same, the present Writ Petitions have been filed.

3. The learned counsel appearing for the petitioners would submit that the third respondent in the impugned order inadvertently has rejected the representations on the ground that the petitioners were not sponsored by the Employment Exchange. The petitioners have made the claim in terms of G.O.(Ms).No.340, Health and Family Welfare Department, dated 02.12.2010. However, the claim of the petitioners was rejected on the ground that G.O.(Ms).No.340, Health and Family Welfare Department, dated 02.12.2010 was not applicable to the petitioners and the said Government Order is applicable to the persons who are appointed through Employment Exchange. In fact, the petitioners were appointed through



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Employment Exchange and however, their services are not regularised.

Hence, the present writ petitions have been filed

4. The learned Additional Government Pleader appearing for the respondents would submit that G.O.(Ms).No.340, Health and Family Welfare Department, dated 02.12.2010 is applicable only to the persons, who have been appointed through the Employment Exchange for a particular post and completed two years of service in the said posts and were paid either on contract or on daily wage basis for those periods. As the petitioners were engaged as Seasonal Mazdoors only and were not appointed as Female Nursing Assistant on consolidated pay, they are not eligible for getting benefit under the provisions of the said Government Order.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.



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6. The facts in the present case are not in dispute. The District Employment Officer, Theni District, had been requested by the respondents to sponsor candidates for the post of Seasonal Mazdoor for carrying out Chikungunya Control measures in Theni District during September 2006 in terms of G.O.(Ms).No.854, Health and Family Welfare Department, dated 25.08.2006. Admittedly, the petitioners were engaged as Seasonal Mazdoors for 75 days and till date, they continue in the said posts. The petitioners claim that their services are not regularised in terms of G.O(Ms).No.340, Health and Family Welfare Department, dated 02.12.2010. Whereas the respondents claim that the said G.O(Ms).No.340, Health and Family Welfare Department, dated 02.12.2010 is not applicable to the petitioners and the same is applicable only to the persons who have been appointed through Employment Exchange only for the Department of Medical and Family Welfare Department and is not applicable to the institutions functioning under the Department of Public Health and Preventive Medicine. But, the petitioners have not produced any appointment orders. Hence, this Court is not inclined to interfere with the impugned order passed by the 3rd respondent in Na.Ka.No.4258/2019/Aa5 dated 14.02.2020.



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However, the services of the petitioner will be in existence, till the Central Government funds the project. In future, if any Government Order is passed in favour of the petitioners and other similarly placed persons who are engaged as Seasonal Mazdoors, the petitioners may file applications before the Competent Authority for regularisation. The respondents are directed to continuously engage the petitioners' service in their respective posts in which they are now working, till the Central Government extends the monetary benefits to the State Government.

7. With these observations, these Writ Petitions are disposed of.
No costs. Connected miscellaneous petitions are closed.

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Index : Yes / No

Speaking Order : Yes / No

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M.DHANDAPANI,J.

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