



W.P.(MD) No.5321 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.5321 of 2019

and

W.M.P. (MD) Nos.4235, 4236 & 17597 of 2019

WEB COPY

T.Anbuselvam

... Petitioner

vs.

1.The State of Tamil Nadu
rep.by its Secretary
Department of Health Services &
Family Welfare
St.George Fort, Chennai-600 009

2.The Project Director
Tamil Nadu State AIDS Control Society
417, Pantheon Road
Egmore, Chennai-600 008

3.The Joint Director
O/o.The Joint Director of Health Services
Government Head Quarter's Hospital
Usilampatti, Madurai District

4.The Chief Medical Officer
Government Hospital
Melur, Madurai District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records pertaining to the impugned Termination order, passed by the 3rd respondent herein vide Ref.No.6062/E2/2013, dated 30.04.2014 and the consequential impugned communication of the 2nd respondent herein vide Ref.No.5842/A3/Estt/ TANSACS/2016, dated 14.11.2016 and quash the same as illegal and consequently direct the respondents to reinstate the petitioner with continuity of service with all other benefits as the "Care Co-ordinator" in the 4th respondent's ART-Centre.

For Petitioner : Mr.C.Kishore

For Respondents : Mr.D.S.Nedunchezian

Government Advocate for R1, R3 & R4

Ms.C.N.G.Niraimathi for R2



O R D E R

The reliefs sought for in this writ petition are to quash the order of termination, dated 30.04.2014, passed by the third respondent and the consequential communication of the second respondent, dated 14.11.2016, and to direct the respondents to reinstate the petitioner with continuity of service.

2. The petitioner was engaged by the second respondent - AIDS Control Society, which is a Society registered under the Tamil Nadu Societies Registration Act, 1975.

3. However, the learned counsel appearing for the second respondent made a submission that after termination, a fresh selection was conducted and many other employees, who were earlier working, were selected, however, the petitioner herein was not selected and therefore, his claim cannot be considered. It is further contended that the second respondent - AIDS Control Society is a Non-Governmental Organization and a registered Society and therefore, writ is not maintainable.

4. This Court is of the considered opinion that though the petitioner has challenged the termination order, admittedly, he was engaged on temporary basis and subsequently, a selection process was conducted, in which other persons were selected, however, the petitioner was not selected. If at all the petitioner is aggrieved from and out of the order of termination or in respect of the further selection conducted or otherwise, he has to approach the competent Court of law for the purpose of redressal of his grievance. However, the second respondent - Society is not a State within the meaning of Article 12 of the Constitution of India and therefore, the writ petition under Article 226 of the Constitution of India is not maintainable. If the petitioner is falling within the definition of "workman" under the Industrial Disputes Act, 1947, he has to approach the Labour Court, if not, he has to approach the competent Civil Court for appropriate remedy. In such an event, the period, during which the writ petition was pending before this Court, is to be taken into consideration for the purpose of condoning the delay, if any, and the issues are to be decided on merits and in accordance with law.

5. With the above observations and directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS I)

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/ /2022

Sub Assistant Registrar(CS)

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To:

1.The Secretary,
Department of Health Services &
Family Welfare,
State of Tamil Nadu,
St.George Fort, Chennai-600 009.

2.The Joint Director,
O/o.The Joint Director of Health Services,
Government Head Quarter's Hospital,
Usilampatti, Madurai District.

3.The Chief Medical Officer,
Government Hospital,
Melur, Madurai District.

+1 CC to M/s.C. KISHORE, Advocate (SR-17285[F] dated 07/04/2022)

+1 CC to M/s.SPL.GP (SR-17501[F] dated 08/04/2022)

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MGJ(22.04.2022) 3P 6C