



W.A.(MD)No.679 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.A(MD)No.679 of 2022
and
C.M.P(MD)No.5720 of 2022

Ananthi Jothi

... Appellant

Vs.

- 1.The State of Tamil Nadu,
represented by its Principal Secretary to Government,
Health and Family Welfare Department,
Chennai – 600 009.
- 2.The Director,
Department of Public Health and Preventive Medicine,
Chennai.
- 3.The District Collector,
Thoothukudi @ Thoothukudi.
- 4.The Commissioner,
Thoothukudi Municipal Corporation, Thoothukudi.
- 5.The Chair Person,
City Health Society, Thoothukudi.
- 6.The City Health Officer,
Urban Primary Health Centre,
Ganesh Nagar, Thoothukudi,
Thoothukudi District.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent to allow this Writ Appeal by setting aside the order passed in W.P.(MD)No.1056 of



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2022, dated 24.03.2022.

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For Appellant :Mr.N.Sathish Babu
For R1 to R3 :Mr.S.P.Maharajan
Special Government Pleader
For R4 to R6 :Mr.N.Anandha Kumar

JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

This Writ Appeal is directed against the order of the learned Single Judge, dated 24.03.2022, dismissing the Writ Petition filed by the appellant for issuance of a Writ of Mandamus to forbear the respondents from in anyway preventing the appellant/Writ Petitioner from functioning as Urban Health Nurse in the sixth respondent Primary Health Centre, where she was working until 31.12.2021 and for further reliefs.

2.Heard Mr.N.Sathish Babu, learned Counsel for the appellant, Mr.S.P.Maharajan, learned Special Government Pleader, who takes notice for the respondents 1 to 3 and Mr.N.Anandha Kumar, learned Counsel, who takes notice for R4 to R6. By consent of both parties, the Writ Appeal is taken up for final disposal at the admission stage itself.

3.The appellant, after completing the 12th standard and



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Auxillary Nursing Midwife (ANM) course from a private institute, was engaged as Nursing Assistant in the sixth respondent Primary Health Centre. It is the specific case of the appellant that the appointment of the appellant was pursuant to a recruitment notification issued by the fourth respondent in the year 2015 and was appointed on 01.03.2016.

4.A perusal of the appointment order produced by the appellant shows that the appellant was appointed by a private agency called “AMK-Man Power Services”. Though the appellant was instructed to join before the Commissioner of Tuticorin Corporation, it indicates that the appointment of the petitioner is temporary and that the appellant can be terminated from service with or without quoting any reasons. From 2016 till the Writ Petition was filed, it is stated that the appellant was in service on temporary basis.

5.The learned Single Judge dismissed the Writ Petition after holding that the appellant was appointed purely on temporary basis and that her appointment was not intended to be made permanent. Since the appointment was made by a man power agency, the learned Single Judge held that the appellant is not entitled to seek any relief against the Government and she may seek relief against the private agency, if at all the appellant is aggrieved on account of her non-employment.



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6. Having regard to the nature of engagement and the order of appointment issued by the private agency, this Court is unable to interfere with the order of the learned Single Judge. However, the fact that the appellant was in service for a considerable period on temporary basis under the sixth respondent is not in dispute. Hence, the learned Counsel for the appellant requested this Court to consider the period of service rendered by the appellant, in case, the respondents happened to consider the appellant's candidature pursuant to any recruitment notification.

7. The learned Counsel for the respondent 4 to 6 submitted that the appellant did not have the required qualification for being appointed on regular basis, as she has not completed the two year training course. The learned Counsel for the appellant pointed out that as per the new Government Order, the qualification prescribed is only one year training course and therefore, the appellant is entitled to be considered in future vacancies. However, without expressing any opinion on the merits of the submissions of the learned Counsel on either side, this Court directs the respondents to consider the candidature of the appellant on merits taking into account the temporary service of appellant pursuant to her engagement through private agency.



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8. With the above directions, this Writ Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
08.07.2022

Index : Yes / No

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To

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2. The Director,
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