



W.A.(MD) No.1179 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2022

CORAM:

**THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD**

**W.A.(MD) No.1179 of 2022
and
C.M.P.(MD) No.9172 of 2022**

- 1.Jeya Sutha
- 2.Manimekala
- 3.Santhaselvi
- 4.Vasanthi

... Appellants

-VS-

- 1.The State of Tamil Nadu
rep.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-600 018
- 3.The District Collector
Thoothukudi District @ Thoothukudi



W.A.(MD) No.1179 of 2022

WEB COPY

4.The Commissioner
Thoothukudi Municipal Corporation
Thoothukudi

5.The Chair Person
City Health Society
Thoothukudi

6.The City Health Officer
Urban Primary Health Centre
Mullakadu
Thoothukkudi
Thoothukudi District

7.The City Health Officer
Urban Primary Health Centre
Lourthammalpuram
Thoothukkudi
Thoothukudi District

8.The City Health Officer
Urban Primary Health Centre
P&T Colony
Thoothukudi
Madathur
Thoothukudi District

9.Kandha Lakshmi

10.Usha

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 24.03.2022, passed in W.P.(MD) No.739 of 2022 on the file of this Court.



WEB COPY

W.A.(MD) No.1179 of 2022

For Appellants : Mr.N.Sathish Babu

For Respondents : Mr.S.P.Maharajan
Special Government Pleader for R1 to R3 & R5
Mr.N.Anandakumar
Standing Counsel for R4 to R8

J U D G M E N T

[Judgment of the Court was made by R.MAHADEVAN, J.]

Mr.S.P.Maharajan, learned Special Government Pleader, takes notice for the respondents 1 to 3 & 5 and Mr.N.Anandakumar, learned Standing Counsel, takes notice for the respondents 4 to 8.

2. In view of the relief to be granted in this Judgment, notice to the private respondents is dispensed with.

3. With the consent of both sides, the writ appeal is taken up for final hearing at the admission stage itself.

4. This writ appeal is directed against the order dated 24.03.2022, passed by the learned Single Judge in W.P.(MD) No.739 of 2022, dismissing the claim of the appellants to forbear the respondents 1 to 8 herein from in



W.A.(MD) No.1179 of 2022

anyway preventing them from functioning as Urban Health Nurse in the respondent - Urban Primary Health Centres, wherein they were working till 31.12.2021.

5. According to the appellants, after completion of their nursing courses from a Private Institute, they were appointed, on temporary basis, as Nursing Assistants in the respondent – Urban Primary Health Centre on 23.05.2016, 25.05.2016, 23.05.2016 and 23.05.2016 respectively, pursuant to the recruitment notification of the year 2015 issued by the fourth respondent. Further, their appointment as Nursing Assistants was by a Private Agency, namely, AMK Man Power Services and all of a sudden, with effect from 01.01.2022, they were terminated from service. Challenging the termination of service, the appellants filed W.P.(MD) No.739 of 2022.

6. The learned Single Judge, by order dated 24.03.2022, dismissed the writ petition primarily on the ground that since the appointment of the appellants as Nursing Assistants was on temporary basis and that too their appointment was made by a Man Power Agency, they are not entitled to the relief as such sought for in the writ petition. Challenging the said order dated 24.03.2022, the present writ appeal has been filed.



W.A.(MD) No.1179 of 2022

WEB COPY

7. The learned counsel for the appellants submitted that since the appellants have rendered service as Nursing Assistants in the respondent – Urban Primary Health Centre for a considerable period, even though on temporary basis, they are entitled for regularization of service.

8. The learned Special Government Pleader appearing for the respondents 1 to 3 & 6 submitted that since the appellants do not possess the requisite qualification of two years training course, they are not entitled for regularization of service.

9. By way of reply, the learned counsel for the appellants submitted that in an identical situation, this Court, by Judgment dated 08.07.2022 in W.A.(MD) No.679 of 2022, disposed of the writ appeal by directing the respondents to consider the candidature of the appellant on merits taking into account the temporary service of the appellant pursuant to her engagement through a private agency and therefore, prayed for a similar direction in the case on hand also.



W.A.(MD) No.1179 of 2022

WEB COPY

10. The learned Special Government Pleader has no objection in issuing direction to the respondents herein on the same line of the Judgment dated 08.07.2022 in W.A.(MD) No.679 of 2022.

11. At this juncture, it would be relevant to extract hereunder the relevant paragraphs of the Judgment dated 08.07.2022:

“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



WEB COPY

W.A.(MD) No.1179 of 2022

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.

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

12. In view of the above, without going into the merits of the case, this Court directs the respondents 1 to 8 to consider the candidature of the appellants herein purely on merits taking into account their temporary service as Nursing Assistants in the respondent – Urban Primary Health Centres pursuant to their engagement through a private agency.

13. Accordingly, the writ appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [J.S.N.P., J.]

10.10.2022

Index : Yes / No
Internet : Yes / No

krk

Page 7 of 9



W.A.(MD) No.1179 of 2022

WEB COPY

To:

- 1.The Principal Secretary to Government,
Health and Family Welfare Department,
State of Tamil Nadu,
Chennai-600 009.
- 2.The Director,
Department of Public Health and
Preventive Medicine,
Chennai-600 018.
- 3.The District Collector,
Thoothukudi District @ Thoothukudi.
- 4.The Chair Person,
City Health Society,
Thoothukudi.



WEB COPY



W.A.(MD) No.1179 of 2022

R.MAHADEVAN, J.
and
J.SATHYA NARAYANA PRASAD, J.

krk

W.A.(MD) No.1179 of 2022
and
C.M.P.(MD) No.9172 of 2022

10.10.2022