



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2022

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.16522 of 2020

Karuppaiah

... Petitioner

Vs.

1. The Principal Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George, Chennai-600 009
 2. The Director
Directorate of Health and Family Welfare Department,
D.M.S.Compound,
Thenampettai, Chennai- 600 006
 3. The Joint Director
Directorate of Medical and Rural Health
Services and Family Welfare Department,
Government Hospital,
Head Quarters Hospital,
Sivagangai District.
 - 4 The Medical Officer,
Government Hospital, Singampunari, Sivagangai District.
- ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, call for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No.1421/N2/2019 dated 11.6.2019 quash the same and consequently direct the respondents to reinstate the petitioner in the post of Hospital Worker in the Government Hospital, Singampunari, Sivagangai District with continuity of service and also regularize the petitioner in the post of Hospital Worker as like similarly regularized persons.

For Petitioner : Mr.K.Baalasundharam

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader



O R D E R

The order of rejection rejecting the claim of the writ petitioner for regularization of service in proceedings dated 11.06.2019 is under challenge in the present writ petition.

2. The petitioner states that he was appointed as Hospital worker through outsourcing Agency namely Society for Education and Women Development in the year 2006. The petitioner continued in his capacity as outsourcing employee and made an application to regularize his services.

3. The learned counsel appearing for the petitioner mainly contended that the writ petitioner earlier filed writ petition in W.P(MD).No.15531 of 2012. The said writ petition was allowed by this Court and the impugned order of rejection in that writ petition was set aside and a direction was issued to the respondent to consider the case of the writ petitioner and pass appropriate orders within a period of six weeks.

4. Pursuant to the orders passed by this Court, the case of the writ petitioner was considered and it was rejected by the respondent on the ground that the petitioner was initially appointed through outsourcing agency and not appointed in accordance with the Recruitment Rules in force. Therefore, his claim for regularization was rejected.

5. The order impugned states that as per the agreement entered into between the respondent and the Outsourcing Agency, "recruitment and appointment of the man power for the services shall be made only by the service provider and the Directorate shall not be responsible fully or partly to any person engaged or other dispute that may arise between the Service Provider and the persons engaged". When the petitioner is not appointed in accordance with the Recruitment Rules as applicable to the post in the Government Department, he cannot seek the benefit of regularization merely based on the fact that he was appointed by outsourcing Agency. The Outsourcing Agency engaged the petitioner to perform certain duties and responsibilities in Government Hospital. Such employees are not the Government servants appointed in accordance with the Rules in-force. Thus, the persons appointed through Outsourcing Agency cannot claim the benefit of regularization or permanent absorption as their initial appointments were not made in accordance with the Recruitment Rules applicable to the Government Department.

6. In view of the facts and circumstances, the petitioner has not established even a semblance of legal right for the purpose of considering his claim for regularization or permanent absorption. Services cannot be granted in violation of the Rules in-force.



All appointments are to be made strictly in accordance with the Rules. When the petitioner was appointed admittedly by Outsourcing Agency, there is no scope for considering his case for regularization by the Department.

7. Accordingly, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Ssb

To

1. The Principal Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St.George, Chennai-600 009
2. The Director
Directorate of Health and Family Welfare Department,
D.M.S.Compound,
Thenampettai, Chennai- 600 006
3. The Joint Director
Directorate of Medical and Rural Health
Services and Family Welfare Department,
Government Hospital,
Head Quarters Hospital,
Sivagangai District.
- 4 The Medical Officer,
Government Hospital, Singampunari, Sivagangai District.

+1 CC to M/s.SPL.GP (SR-10994[F] dated 09/03/2022)

W.P. (MD) No.16522 of 2020

08.03.2022

_RD(24.03.2022) 3P 6C