



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.5484 of 2014

and

M.P. (MD)No.1 of 2014

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N.Karpagavalli

... Petitioner

vs

1. The State of TamilNadu,
represented by its secretary,
Health and Family Welfare Department,
Fort St.George,
Chennai - 600 009.
2. The Director of Public Health
and Preventive Medicine,
DMS Campus,
Teynampet,
Chennai - 600 006.
3. The Joint Director of Public Health
and Preventive Medicine,
DMS Campus,
Teynampet,
Chennai - 600 006.
4. The Deputy Director of Health Services,
Sivakasi HUD,
Virudhunagar District.
5. The Block Medical Officer,
Government Primary Health Centre,
Kunnur,
Virudhunagar District.
6. The Medical Officer,
Government Primary Health Centre,
Kottaiyur,
Virudhunagar District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to regularize the service of the petitioner in the cadre of Sanitary worker from the date of the petitioner's appointment as Sanitary worker and granting such other and further relief as this Court may deem fit and proper in the circumstances of this case.



For Petitioner : Mr.M.Sheik Abdullah
For Respondents : Mr.D.Farjana Ghoushia
Special Government Pleader

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O R D E R

This Writ Petition is filed for issuance of a Writ of Mandamus, to direct the respondents to regularize the service of the petitioner in the cadre of Sanitary worker from the date of the petitioner's appointment as Sanitary worker and grant such other and further relief as this Court may deem fit and proper in the circumstances of this case.

2. The petitioner was appointed as Sanitary worker in the Primary Health Centre, Kottaiyur, Virudhunagar District on 01.08.2005, vide order dated 29.07.2005 of the fourth respondent, on a consolidated pay of Rs.990/- (Rupees Nine Hundred and Ninety only). The petitioner submitted a representation, dated 07.03.2012 to regularize the service. Since the same was not considered, the petitioner filed a writ petition in W.P.(MD)No.3568 of 2012. This Court, vide order, dated 25.03.2012, directed the respondents to consider the representation and pass orders.

3. The fourth respondent has issued an appointment order under 10 (a) (1) of the Tamil Nadu Subordinate Service Rules for basic services in the proceedings, dated 17.04.2012. The grievance of the petitioner is in spite of his appointment under 10(a) (1) of the Tamil Nadu Subordinate Service Rules and has put in service for more than nine years, he was not made permanent. The contention of the petitioner is that he is 31 years of age and already has put in nine years of service as per 10(a) (1) of the Tamil Nadu Subordinate Service Rules and she is eligible for regularizing the service.

4. The respondents have submitted that the petitioner's earlier appointment was only on contract basis and based on the Court order, the petitioner's service was regularized. As per 10(a) (1) of the Tamil Nadu Subordinate Service Rules, the order was issued and while issuing the order it was categorically stated that the appointment was made on temporarily basis and the service is liable for termination at any time without prior notice or without assigning any reason there of. Therefore, the petitioner has no right to claim for regularization, since her earlier appointment was not through any proper recruitment like calling from Employment Exchange, following roster system and other recruitment rules. The respondents relied on Umadevis's case, wherein, it has been held that the recruitment must be made only in accordance with recruitment rules and no recruitment cannot be made through backdoor entry. Therefore, the petitioner cannot claim any regularization.



5. This Court is of the considered opinion that the petitioner cannot pray for regularization since the petitioner was appointed under section 10(a)(i). However, the respondents shall consider the petitioner's candidature while recruiting to the said post and the service already rendered shall be taken into account and grant weightage, while recruiting for the permanent post.

6. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

jbr

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

- 1.The secretary,
The State of TamilNadu,
Health and Family Welfare Department,
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- 2.The Director of Public Health
and Preventive Medicine,
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Virudhunagar District.

<https://hcservices.ecourts.gov.in/hcservices/>



5.The Block Medical Officer,
Government Primary Health Centre,
Kunnur,
Virudhunagar District.

6.The Medical Officer,
Government Primary Health Centre,
Kottaiyur,
Virudhunagar District.

+1 CC to M/s.M.SHEIK ABDULLAH, Advocate (SR-655[F]
dated 06/01/2022)

+1 CC to M/s.SPL GP (SR-363[F] dated 05/01/2022)

Order made in
W.P. (MD)No.5484 of 2014
04.01.2022

pk (CO)
GC(08.02.2022) 4P 9C