



W.P.(MD)No.28307 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.28307 of 2022

and

W.M.P.(MD)No.22363 of 2022

J.Annalakshmi

... Petitioner

Vs.

1. The Secretary,
Ministry of Health and Family Welfare,
Government of India,
Nirman Bhavan,
New Delhi-110001.

2.The Mission Director,
National Health Mission,
No.359, Anna Salai, 5th Floor,
DMS Annex Building,
DMS Complex,Teynampet,
Chennai-600 006.

3.The Director,
Directorate of Public Health and Preventive Medicine (Spl.work),
Chennai-6.



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4.The Deputy Director of Health Service,
Department of Public Health and Preventive Medicine,
Sankarankovil, Tenkasi District.

5.The Block Medical Officer,
Government Primary Health Centre,
Chockampatti,
Tenkasi District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 12.09.2022 vide proceedings in Na.Ka.No. 3119444/Aa.Su.Ni-7/A3/2022 passed by the 3rd respondent and quash the same as illegal and consequently directing the respondents to allow the petitioner to work at 5th respondent Government Primary Health Centre and regularize the petitioner's service from 2011 as Scavenger as per G.O.Ms.No. 385 (Finance) (Salary) dated 01.10.2010 and fix the time scale of pay of Rs.1300-3000+Rs.300 to the petitioner.

For Petitioner : Mr.T.Indrachithu

For Respondents : Mr.M.Karthikeya Venkatachalapathy
Central Government
Standing Counsel for R1
Mr.C.Satheesh
Government Advocate
for R3 to R5



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ORDER

This Writ Petition has been filed to call for the records pertaining to the impugned order, dated 12.09.2022 vide proceedings in Na.Ka.No. 3119444/Aa.Su.Ni-7/A3/2022 passed by the 3rd respondent, quash the same as illegal and direct the respondents to allow the petitioner to work at 5th respondent Government Primary Health Centre and regularize the petitioner's service from 2011 as Scavenger as per G.O.Ms.No. 385 (Finance) (Salary) dated 01.10.2010 and fix the time scale of pay of Rs. 1300-3000+Rs.300 to the petitioner.

2. The learned counsel appearing for the petitioner would submit that the petitioner was appointed as Scavenger by the second respondent in the 5th respondent Government Primary Health Centre in the year 2011 on daily wage basis and she was paid Rs.50/- per day. Initially, the payment was made through cheque and later, she was paid through account transfer. The said appointment was made under RCH/NRHM Scheme and the said



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scheme is funded by the Central Government. Though the petitioner was appointed in the year 2011, her service was not regularised and the salary has not been enhanced. The service of the similarly placed persons was regularised fixing the pay scale of Rs.1300-3000+Rs.300/- as per G.O.Ms.No.385 (Finance Salary Department) dated 01.10.2010. Therefore,, in order to avail the benefit, the petitioner sent a representation on 21.04.2021 for regularisation of her service, but, no order was passed. Hence, the petitioner has filed a writ petition in W.P(MD).No.18557 of 2022 and this Court, vide its order, dated 16.08.2022 directed the 3rd respondent to consider the representation of the petitioner and pass appropriate orders in accordance with law within a period of 12 weeks. Thereafter, the third respondent has passed the impugned order denying the regularisation of her service, without considering the appointment of the petitioner made under RCH/NRHM scheme, which is not sustainable one. Hence, he prays for allowing the writ petition.

3. The learned counsel appearing for the respondents would submit that the petitioner was engaged as daily wage employee under the



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RCH/NRHM Scheme are entitled for consolidated pay. Since the petitioner's appointment is under the said Scheme, the claim made by the petitioner is not sustainable one. Hence, this Court is not inclined to interfere with the order passed by the third respondent. However, the respondents are directed to engage the petitioner in the service so long as the scheme is in existence.

6. Accordingly, this Writ Petition is dismissed. No costs.
Connected miscellaneous petition is closed.

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Index : Yes / No

Speaking Order : Yes / No

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