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W.P.(MD)NO.6953 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6953 of 2023

Ananthi

... Petitioner

Vs.

1. The Deputy Director of Health Services,
O/o.The Deputy Director of Health Services,
16, Old Police Hospital Road,
Samathanapuram, Palayamkottai,
Tirunelveli District.
2. The Block Medical Officer,
Government Primary Health Centre,
Tisyanvilai,
Tirunelveli District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings in O.Mu.No.5367/A5/2022 dated 27.02.2023 and quash the same as illegal and consequentially directing the 1st respondent to permit the petitioner to join as Data Entry Operator in any of the place in the 2nd respondent office within the period that may be stipulated by this Court.



For Petitioner : Mr.A.Nawaz Khan

For Respondents : Mr.G.Senthil Ayyanar,
Government Advocate.

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner was appointed as Data Entry Operator in the year 2015. She was working in the Primary Health Centre, Tisyanvilai. She was asked to report for duty in the office of the Deputy Director of Health Services, Tirunelveli on 10.03.2022. The petitioner did not report for duty for almost 90 days. She submitted a letter in April 2022 that she had fallen down and that only on account of her physical indisposition, she could not report for duty in the transferred place. However, the petitioner's request was not accepted and the impugned order dated 27.02.2023 came to be passed. On account of her unauthorized absence, her contractual engagement stood terminated and that a new candidate had been appointed in her place. Challenging the said order dated 27.02.2023, the present writ petition came to be filed.



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3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4. The respondents have filed counter affidavit and the learned Government Advocate took me through its contents. He also drew my attention to the relevant clause in the agreement entered between the petitioner on the one hand and the employer on the other. He submitted that no case for interference has been made out. He prays for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. It is true that the petitioner was only a contractual employee. Clause 30 of the Contract reads that the petitioner's engagement would stand terminated, if she was absent for 7 working days or more, continuously from duty without taking permission from the competent authority. In this case, the petitioner was absent for full 90 days. Therefore, the termination of the petitioner's engagement cannot be



faulted. However, the rigour of the clause may not be applied as such.

The petitioner claims to be a destitute woman. The petitioner had produced medical certificate indicating that only on account of the medical indisposition, she could not report for duty in the transferred place. It is also seen that the petitioner's father had passed away on 10.05.2022. To a specific question framed by this Court, it has been fairly stated by the respondents that there is a vacancy in the post of Data Entry Operator in the office of the Deputy Director of Health Services, Tirunelveli under the aforesaid contractual scheme.

7. The first respondent is directed to take into account the petitioner's pathetic circumstances and consider appointing her in the said vacancy. The petitioner is permitted to file a fresh representation before the respondents within a period of seven days from the date of receipt of a copy of this order. The first respondent shall pass an appropriate order within a period of three weeks thereafter. This writ petition stands disposed of accordingly. No costs.

01.06.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

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6

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G.R.SWAMINATHAN,J.

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