



W.P(MD)No.10672 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 21.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10672 of 2023

and

W.M.P.(MD)No.9420 of 2023

C.Ajitha

... Petitioner

Vs.

**1.The Director of Medical and Rural Health Services,
359, Anna Salai,
Chokkalingam Nagar,
Teynampet,
Chennai-600006.**

**2.The Deputy Director of Health Service,
Sivakasi HUD,
Sivakasi,
Virudhunagar.**

**3.The Block Medical Officer,
Government Primary Health Centre,
Maraneri,
Sivakasi HUD,
Virudhunagar District.**

... Respondents

***Prayer* :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 1st respondent in Ref.no. 12175/N1/2/2023 dated 28.03.2023 and quash the same as illegal and further direct the respondents to



W.P(MD)No.10672 of 2023

reinstate the petitioner as the Nurse in Government Primary Health Centre, Maraneri, Sivakasi Taluk, Virudhunagar District with continuity of service and all monitory and service benefits within a time stipulated by this Court.

For Petitioner : Mr.K.P.Krishnadoss

For Respondents : Mr.G.Suriyananth
Additional Government Pleader

ORDER

The petitioner is holding B.Sc Nursing degree. She was recruited by the medical services recruitment board as nurse on consolidated pay in the year 2017. The copy of the appointment and posting order dated 17.04.2017 has been enclosed in the typed set of papers. The petitioner was implicated in a case of child trafficking in Crime No.18 of 2023 registered on the file of the Maraneri Police Station, Virudhunagar District on 21.02.2023. The petitioner was arrested and remanded to custody. Thereafter, by the impugned order dated 28.03.2023, the petitioner's service has been terminated. Challenging the same, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition



W.P(MD)No.10672 of 2023

and called upon this Court to set aside the impugned order and direct the respondents to reinstate the petitioner in service.

3. The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents. The stand of the respondents is that the petitioner is not a regular employee and that she is only a contractual staff drawing consolidated pay. The petitioner has been implicated in a grave offence. Since the appointing authority has formed opinion on the objective materials that it would not be proper to retain her in service, the impugned termination order has been issued. The petitioner has no legal right to insist that she must be retained in service. The learned Additional Government Pleader submitted that the impugned termination order is very much in tune with Clause 3 of the terms and conditions of the appointment. He pressed for dismissal of the writ petition.

4. I carefully considered the rival contentions and went through the materials on record. It is not in dispute that the petitioner was appointed as nurse on consolidated pay in the year 2017. Clause 3 of the terms and conditions reads as follows:-



W.P(MD)No.10672 of 2023

“3. The Government represented by the Director of Medical and Rural Health Services shall have the power to terminate the services of any of the staff nurses appointed on the ground of unsatisfactory performance if reported by their immediate higher authorities.”

Now the only question is whether the impugned order is sustainable. It is beyond dispute that the petitioner was summarily thrown out. The reason for showing the door to the petitioner is her implication in Crime No.18 of 2023 on the file of the Maraneri Police Station. The petitioner is figuring as A5 in the said case. A couple by name Pandeewaran & Panjavarnam (A1 & A2) had begotten a girl child. It was their 4th child. A childless couple (George & Irin) A3 & A4 had approached A1 & A2 for adopting the baby. The case of the petitioner is that this transaction was facilitated by one Muthumari, Village Health Nurse. The child was born in Government Hospital, Sivakasi. The child appears to have been handed over.

5. The case of the prosecution is that some transaction had taken place in the house of the petitioner. The learned counsel appearing for the petitioner would allege that the said Muthumari is none other than the sister of Kasiammal, Sub Inspector of Police who registered FIR. He would further contend that Muthumari is very much figuring in the FIR.



W.P.(MD)No.10672 of 2023

Only to facilitate her escape from the clutches of law, the petitioner has been unfairly roped in.

6. I do not want to go into the factual controversy. Whether the petitioner is innocent or not will have to be established only during investigation or if need be during trial. The only question that I am called upon to consider is if the impugned termination order can be sustained. The impugned termination order is clearly stigmatic in nature. The learned counsel appearing for the petitioner relies on the decision rendered by the ***High Court of Kerala in W.P.(C)No.26934 of 2022 (Tinta K. Vs.Union of India)*** for the proposition that even in a case of contractual employee, the principles of natural justice will have to be applied. I endorse the contention of the learned counsel appearing for the petitioner. When a stigmatic order is passed, it does have severe consequence on the petitioner's career and future. Those who are appointed as nurse on consolidated pay through the medical service recruitment board in the year 2017 are being progressively absorbed in the department. Therefore, the order does have civil consequences too. Such an order cannot be passed arbitrarily or even summarily. The petitioner ought to have been given notice and there must be material to



W.P(MD)No.10672 of 2023

show that the petitioner was guilty of unsatisfactory performance. A mere implication of FIR cannot lead the employer to come to an adverse conclusion against the employee concerned. Therefore, on the ground of violation of principles of natural justice, the impugned order is set aside. The respondents are directed to reinstate the petitioner in service forthwith. Liberty is given to the first respondent to take action as per law.

7. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

21.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
rmi

To

1.The Director of Medical and Rural Health Services,
359, Anna Salai,
Chokkalingam Nagar,
Teynampet,
Chennai-600006.

2.The Deputy Director of Health Service,
Sivakasi HUD,
Sivakasi,
Virudhunagar.

6/8



W.P(MD)No.10672 of 2023

WEB COPY

3.The Block Medical Officer,
Government Primary Health Centre,
Maraneri,
Sivakasi HUD,
Virudhunagar District.



WEB COPY



W.P(MD)No.10672 of 2023

G.R.SWAMINATHAN, J.

rmi

W.P(MD)No.10672 of 2023

21.06.2023