



W.P.(MD)No. 22684 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No. 22684 of 2016

and

W.M.P.(MD)Nos. 16243 & 16244 of 2016

P.Shanmugavalli

... Petitioner

Vs.

1. Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution
Corporation Limited, (TANGEDCO),
TTPS, Tuticorin – 4.
2. The Superintending Engineer,
Tamil Nadu Generation and Distribution,
Corporation Limited, (TANGEDCO),
Generation Circle,
Tuticorin Thermal Power Station,
Tuticorin.
3. Chief Medical Officer,
Headquarters Dispensary,
Tamil Nadu Generation and Distribution,
Corporation Limited, (TANGEDCO),
No.144, Anna Salai,
Chennai – 600 002.

... Respondents



W.P.(MD)No. 22684 of 2016

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records of the 1st respondent proceedings in Memo No.0651/ADM-I/A.2/2016 dated 19.07.2016 and quash the same and consequently direct the 1st respondent to continue the service of the petitioner in Tuticorin Thermal Power Station Medical Centre.

For Petitioner : M/s.V.Stalin, for
D.Selvanayagam

For R-1 to R-3 : Mr.S.Arivalagan
Standing Counsel

ORDER

This writ petition is filed challenging the impugned order, dated 19.07.2016, wherein the petitioner was terminated from service with consequential relief to direct the 1st respondent to continue the service of the petitioner in Tuticorin Thermal Power Station Medical Centre.

2. Heard M/s.V.Stalin, for D.Selvanayagam, learned counsel appearing for the petitioner and Mr.S.Arivalagan, learned Standing Counsel appearing for the respondents 1 to 3. Perused the material documents available on record.



W.P.(MD)No. 22684 of 2016

WEB COPY

3. The petitioner was appointed as a Nursing Assistant in the 1st respondent, Tamil Nadu Generation and Distribution Corporation Limited, (TANGEDCO) in the Tuticorin Thermal Power Station, on 23.06.2014, on daily wages basis and periodically the petitioner's service was extended. The petitioner has completed Female Nursing Assistant Course from the Tuticorin Medical College, which was approved by the Director of Medical Science and obtained a certificate to this effect. The petitioner has also finished Vocational Nursing Course. The petitioner was recruited under the scheme of outsourcing of professional paramedical service.

4. In the Tuticorin Thermal Power Station, though the posts for a Doctor, One Pharmacist and a Nurse are available, nobody was appointed and the petitioner was only one person who was taking care of all the medical need of the officers, employees, workers and their families. The petitioner was called for an interview. After verifying all educational and other qualifications, was given the employment and paid a sum of Rs.250/-per day, initially and it was increased to Rs.350/-per day. The said Dispensary was acting as a First Aid Centre. The petitioner was working day and night, throughout the year. The petitioner's



W.P.(MD)No. 22684 of 2016

WEB COPY

service was extended by the 2nd respondent in every six months and new order would be issued. During the breaking period, the petitioner was not paid any salary. On 21.06.2016, the 3rd respondent sent a communication to the 2nd respondent stating that the persons who studied in the Nursing Institutions and the courses recognized by the Nursing Council of India, namely 4 years of B.Sc. (Nursing) and 3 years Diploma in Nursing and 2 years in Diploma in Auxiliary Nurse Midwife are to be outsourced as eligible candidates and other persons were all treated as one who studied in unrecognized courses.

5. The contention of the petitioner is, the petitioner has completed Nursing Assistant course. By citing above mentioned letter, the 1st respondent has issued the impugned order cancelling the petitioner's appointment. The said cancellation was issued, without any notice and without following the due process of law. Hence, the petitioner has submitted representations, dated 10.11.2016 and 17.11.2016. The respondents did not reply to the said representations but, the petitioner was terminated from service.



W.P.(MD)No. 22684 of 2016

WEB COPY

6. The similarly placed persons who were terminated, like, the petitioner had approached this Court by way of filing writ petitions in W.P. (MD) Nos.17277 & 17278 of 2016 and this Court has confirmed the said termination order, however granted monetary benefits to the period until the contract was in existence. In the said order, dated 29.01.2018, the relevant paragraph No.3 is extracted here under:

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“3. This Court is therefore of the view that the petitioners who admittedly cannot be said to be guilty of any misconduct or misrepresentation, will have to be paid salary for the unexpired period at their services. In the case of N.Sasikala, it appears that in the 10th month she was terminated whereas in the case of R.Bharathi she had atleast 6 more months to go”.

7. In the present case, the petitioner was appointed on 27.01.2015 for six months. Then extended through letter dated 04.09.2015 for a period from 07.09.2015 to 29.02.2016. However, the petitioner was allowed to work continuously till 23.06.2016. Then the petitioner's service was terminated from 19.07.2016 without any notice. Since the respondents have extended every six



W.P.(MD)No. 22684 of 2016

WEB COPY

months, the sudden termination without notice is illegal and against service jurisprudence. Hence the petitioner is entitled to complete 6 months period, from 01.06.2016 until 30.11.2016. Hence, the petitioner is entitled to serve until 30.11.2016. Therefore, the respondents are directed to pay salary for a period from 01.06.2016 to 30.11.2016.

8. With these observations, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
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20.02.2023



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W.P.(MD)No. 22684 of 2016

S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 22684 of 2016**

20.02.2023