



W.P.(MD).No.4261 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.4261 of 2016

and

W.M.P(MD)No.3797 of 2016

D.Senthilkumar

... Petitioner

Vs.

1.The Deputy Director of Health Service,
Madurai.

2.The Block Medical Officer,
Government of Primary Health Centre,
T.Kalluppatti – 625 702,
Madurai District.

3.The Patient Welfare Society,
Government Primary Health Centre,
T.Kalluppatti – 625 702,
Madurai 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 relating to impugned order passed by the 2nd respondent in his proceedings in Na.Ka.No.43/A.1/2010, dated 09.02.2016 and quash the same



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and also to direct the respondents herein to reinstate the petitioner into service and consequently regularize the service of the petitioner with all monetary benefits.

For Petitioner : Mr.K.Hemakarthiskeyan

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This petition has been filed to quash the termination order and to direct the respondents to reinstate the petitioner into service.

2. The petitioner is qualified to be appointed as Driver. The respondents have engaged the petitioner as Driver as contract basis to Mobile Medical Unit through resolution of the 3rd respondent society and the petitioner has joined the service on 17.02.2010. Previously, the petitioner was working in the Primary Health Centre from 01.09.2008 to 16.02.2010 under the 2nd respondent. Subsequently, he was engaged in the Mobile Medical Unit by the 3rd respondent.

3. The contention of the petitioner is that he was suddenly terminated



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from service with effect from 09.02.2016 as per the resolution of the 3rd respondent. Aggrieved over the same, the petitioner has approached this Court.

4. The contention of the respondents is that the petitioner's appointment is under scheme. Hence, a contract was executed. In the contract, it has been expressly stated that his termination will be without any notice. Therefore, the petitioner cannot be aggrieved by the termination. The protection granted under Article 309 read with 311 cannot be granted to the petitioner, since he is only a contractual employee. The protection is available only to the permanent employee. Hence, the petitioner cannot seek any protection.

5. After hearing rival submissions, this Court is of the considered opinion that the temporary employee cannot seek any permanency and also cannot seek any protection. Hence this Court is inclined to grant some compensation to the petitioner based on retrenchment principle. Therefore, this Court is directing the respondents to pay Rs.10,000/- (Rupees Ten Thousand only) to the petitioner within a period of six (6) weeks from the date of receipt of a copy of this order.



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6. With this direction, this Writ Petition is disposed of. No costs.

Consequently, connected Miscellaneous Petition is closed.

23.01.2023

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

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To

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S.SRIMATHY, J.

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