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W.P.No.3890 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.3890 of 2023
and
W.M.P.No.34933 of 2023

K.Aruna

.. Petitioner

VS

1.The Principal Secretary to Government,
Health and Family Welfare Department,
St.George Fort, Secretariat,
Chennai – 600 009.

2.The Director of Public Health and Preventive Medicine,
DMS Complex, Teynampet,
Chennai – 600 006.

3.The Deputy Director of Health Services,
Health Department, Thiruvallur District,
Thiruvallur – 602 001.

4.The District Collector,
Thiruvallur District, Thiruvallur – 602 001.

5.The Medical Officer,
Kannankottai Primary Health Centre,
Kannankottai Village and Post,
Gummidipoondi Taluk,
Thiruvallur District – 601 201.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing respondents no. 1 to 4 herein to take action against the erring medical officers, staffs of the 5th respondent, Primary Health Centre, classified as 24x7 primary health centre, under the control of 3rd respondent herein, and direct the respondents to pay a sum of Rs.10,00,000/- as a compensation and other benefits provided by the Tamil Nadu Government Scheme to educate the children, avail shelter benefits and other benefits, if any, and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.



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For Petitioner : Mr.V.Ramanareddy
For Respondents : Mr.J.Ravindran,
Additional Advocate General
assisted by
Mr.K.Tippu Sultan,
Government Advocate

ORDER

Heard Mr.V.Ramanareddy, for the petitioner and Mr.J.Ravindran, learned Additional Advocate-General for Mr.K.Tippu Sultan, learned Government Advocate, for the official respondents.

2. The facts of the case and possible solutions have been adverted to in orders dated 06.06.2024 and 10.06.2024 reading thus:-

"Order dated 06.06.2024

The petitioner's husband had been bitten by a snake and taken to a Primary Health Centre (PHC) which had been closed at that time, on account of which he passed away. This fact is admitted. Disciplinary action is also stated to have been initiated against the erring PHC Doctor/Staff.

2.The defence putforth is that there were PHC's closed to the one where the petitioner's husband was taken and that, prior to coming to this PHC, he had been taken to a person practising traditional medicine. In the considered view of the Court, this is not a defence at all and the only factor to be considered is whether the PHC had been open when the patient was taken there. To be noted a PHR is required to be kept open 24/7 all 365 days of a year.

3.In the present case, there is a clear breach of rules and in such circumstances, the State cannot shy away from its responsibility.

4.The petitioner is 37 years old as on date. There is a direction to the learned Government Advocate to obtain instructions as to whether the petitioner can be employed proximate to her home, such that she can earn for the family. It is the responsibility of the State to provide her



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employment as it is the carelessness of the State that deprived the family of its sole earning member.

5. That apart, she has two children aged 10 and 12 years. Compensation is to be awarded in order to secure their future, at least, to some extent.

6. List on 10.06.2024 to enable learned Government Advocate to take instructions.

Order dated 10.06.2024:-

A field inspection report dated Nil signed by Block Medical Officer, Govt. Upgrade Primary Health Center, Eguvarpalayam has been filed to the effect that the deceased had one acre of punjai land and his wife has 20 cents of punjai land in their names. It further says that the deceased and his brother together hold ancestral lands. The last averment, according to the learned counsel for the petitioner is incorrect as the deceased did not have any brother.

2. Therefore, the field inspection report is liable to be ignored for the factual mistakes that it contains. That apart, the averments in this report are irrelevant to this petition.

3. Mr. Tippu Sultan appears to be of the impression that the petitioner is to be appointed on compassionate basis. This is misconceived.

4. Compassionate appointments would be governed by Government Orders, the latest being G.O.(Ms.)No.18, Labour and Employment (Q1) Department, dated 23.01.2020. This Government Order is applicable in cases where a Government servant died in harness. Indigence and other conditions are to be satisfied.

5. However, the present direction for compassionate appointment emanates from the Court and hence is not circumscribed by the conditions under the aforesaid G.O. The direction is issued to provide a source of livelihood for the petitioner whose husband had been taken to a Primary Health Centre that had been closed at 3.45 p.m., during working hours. He had passed away without treatment.

6. Let an appropriate decision be taken by the respondents bearing in mind the observations in orders dated 10.02.2023, 06.06.2024 and the present order and reported to this Court on



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20.06.2024.

7. List on 20.06.2024 in the same position."

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3. Thereafter, the respondents took some time to work out the modalities of the relief that is sought to be provided and the Director of Public Health and Preventive Medicine / R2 has offered two positions to the petitioner to enable her to work for her livelihood and up-keep of her family. The positions offered are :-

- (1) Multi-Purpose Hospital Worker – Salary Rs.700/day Approximately (Daily Wages, Temporary by District Health Society) and
- (2) Women Health Volunteers – Salary Rs.4500+1000/ Monthly, Approximately. (appointed by PD Magalir Thittam)

4. Thus, the petitioner may approach R2 on any date in the coming two weeks i.e., between 01.07.2024 and 12.07.2024 between 11.00 am and 12.00 noon along with a copy of this order, shall be given audience and shall be recruited to one of the two positions noted above, based on mutual convenience.

5. As far as children are concerned, they are stated to be studying in 9th and 11th standards. On a careful consideration of the matter, there is a direction to R1 to pay over compensation of a sum of Rupees Two Lakhs (Rs.2,00,000/-) within two weeks from date of receipt of this order. The bank account details shall be supplied by the petitioner immediately for this purpose.

6. Mr.Ravindran would request that the directions under this order may be restricted to the present facts and circumstances alone and



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may not be taken to be a precedent in any further matter. Rather than that I would state that the negligence of the authorities based on which the directions has been issued must not be repeated ever again in future.

7. This writ petition stands allowed in terms of this order. No costs. Connected miscellaneous petition is closed.

28.06.2024

Index:Yes/No
Neutral Citation:Yes
ssm

To

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- 2.The Director of Public Health and Preventive Medicine,
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DR. ANITA SUMANTH,J.

ssm

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