



W.P.No.18592 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	10/1/2024
Delivered on	1/7/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.18592 of 2015

N. Kasi Usen ... Petitioner

Vs

1. The Director
Directorate of Medical Education
Kilpauk
Chennai 600 010.
2. Rajiv Gandhi Government General Hospital
rep. By its Dean
Chennai 600 003.
3. Padmavathi Hospitality and Services
rep. By its Manager
Chennai 600 102. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of mandamus to direct the first respondent to confer permanent employment to the petitioner for the post of Registration Clerk from the date of completion of 480 days of his joining the duty with the second respondent.



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For petitioners

...

Mr.T.Saravanan

For respondents

...

Mr.P.Gurunathan
Additional Government Pleader
for R.R.1 and 2

No appearance for R.3.

ORDER

This writ petition is filed for a direction by way of mandamus to the first respondent to confer permanent employment to the petitioner to the post of Registration Clerk from the date of completion of 480 days of his joining the duty with the second respondent.

2. Brief facts which lead to the filing of this writ petition are as follows:-

The petitioner is a physically challenged person with disability of 70%. He has completed Bachelor of Business Economics (B.B.E) in Alagappa University on 4/2/2009. He has also registered his name in the Employment Exchange. He was placed in the second respondent Hospital as a Registration Clerk at Out-Patient Section from 4/12/2012 on contract basis through Geekay HR Solutions Pvt Limited. He has been



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working in the said capacity through third respondent Padmavathi Hospitality and Services and was also working in odd hours in case of exigencies.

3. The petitioner has worked with the second respondent through various Contractors for more than 480 days in a period of 24 calendar months as Registration Clerk for meager salary. The petitioner had sent several representations to the second respondent to regularise his services and to accord permanent status as Government employee. Since there was no response, the petitioner has come forward with the instant writ petition.

4. The Dean, Rajiv Gandhi Government General Hospital, Chennai has filed counter affidavit on behalf of the respondents 1 and 2, wherein it is stated that the respondents 1 and 2 will not have any contract directly with the contract workman. The petitioner and similarly placed persons were recruited through various out outsourcing agencies by the Government as per the Rules in force related to contract workers and they are allotted to the Government Hospitals in Tamil Nadu. The petitioner was also similarly appointed and he had worked under various



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Contractors and therefore, the relief sought for by the petitioner cannot be granted.

5. Heard Mr.T.Saravanan, learned counsel for the petitioner and Mr.P.Gurunathan, learned Additional Government Pleader for the respondents 1 and 2. There was no representation on behalf of the third respondent.

6. It is submitted by the learned counsel for the petitioner that on account of the fact that the petitioner has completed 480 days of service in a period of 24 calendar months in the second respondent Hospital, services of the petitioner should have been made permanent. It is submitted further that on several occasions, Government has absorbed the similarly placed persons as permanent employees. It is also submitted that freshers are being appointed without any experience in the regular vacancies.

7. The petitioner is seeking permanency of his employment as per the provisions of the Tamil Nadu Industrial Establishments (Conferment



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of Permanent Status to Workmen) Act, 1985. Section 3 of the said Act

runs as follows:-

“3.Conferment of permanent status to workmen.—

(1) Notwithstanding anything contained in any law for the time being in force every workman who is in continuous service for a period of four hundred and eighty days in a period of twenty four calendar months in an industrial establishment shall be made permanent.

(2) A workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorized leave or an accident or a strike, which is not illegal, or a lock-out 1 [***] or a cessation of work which is not due to any fault on the part of the workman.”



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8. On a perusal of the above, it is clear that Section 3 of the said Act, presupposes a relationship between the petitioner and third respondent as employer and employee. Even according to the petitioner, he has worked in the third respondent Hospital on contract basis. In fact, as per the affidavit of the petitioner, he worked in third respondent Hospital, under various Contractors. Initially, he was placed in the second respondent Hospital on 4/12/2012 on contract basis through Geekay HR Solutions Pvt Ltd., through the third respondent, viz., Padmavathi Hospitality and Services. In order to see the relief as sought for, the petitioner was expected to work with the respondents 1 to 3. There must be a relationship as employee and employer between the petitioner and respondents 1 to 3. As on the date of filing of application, he should be employed with the respondents 1 to 3, otherwise, the application will not sustain.

9. Further, under the above said Act, in order to get permanency, the petitioner is expected to approach the concerned authorities under the said Act. Without doing so, the petitioner has approached this Court by way of a writ petition. In view of the above, there is no merits in the writ petition and the same is liable to be dismissed.



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10. In the result, this writ petition is dismissed. No costs.

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Index: Yes/No

Neutral Citation: Yes/No

To

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2. The Dean
Rajiv Gandhi Government General Hospital
Chennai 600 003.

Dr.D.NAGARJUN,J



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Pre-delivery order made in
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