



W.P.No.17598 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

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1. M.Umapathy
2. G.Harikrishnan
3. G.Manoharan
4. K.Ramesh
5. N.K.Gnansekar
6. A.J.Lakshmikanthan
7. A.Gopi
8. K.Srinivasan
9. V.Loganathan
- 10.K.Sivaseelan
11. M.Saravanan
12. S.P.Saraswathi
13. M.Santhakumar
14. M.Kumaravel
15. T.Ranganathan
-Petitioners

Vs

1. The State of Tamil Nadu,
Rep.by its Prinicipal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
2. The Director,
Directorate of Medical Education,
Kilpauk,
Chennai – 600 010.



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3. The Project Director,
Tamil Nadu Health Systems Project,
Nungambakkam,
Chennai – 600 006.
4. The Director
O/o. Director of Medical and Rural Health Services,
Teynampet,
Chennai – 600 006.
5. The Joint Director,
O/o. Joint Director of Medical and Rural Health Services,
Vellore District,
Vellore.
6. The Dean,
Government Vellore Medical College and Hospital,
Vellore District.

....Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, pleased to issue a Writ of Certiorarified Mandamus calling for the records from the 3rd respondent pertaining to proceedings vide K.Dis.No.31396 /E4/3/2019 dated 22.01.2020 on the file of the 2nd respondent quash the same as illegal, incompetent and ultravires and consequently direct the respondents to reinstate the petitioners in the post of Hospital Workers at Government Medical College and Hospital, Vellore with all service and monetary benefits in the light of the order passed by this Court in W.A.(MD).No.743 of 2015 dated 22.04.2016 complied by the 1st respondent in G.O.(Ms).N.325 Health and Family Welfare (C1) Department dated 11.09.2017.

For Petitioners : Mr.R.Jayaprakash
For Respondents : Mr. E.Sundaram



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Government Advocate

ORDER

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The instant Writ Petition has been filed challenging the order rejecting the request of the petitioner for reinstatement.

2. It is the contention of the petitioners that they have been recruited by the respondents on contractual basis, and the similarly placed person's appointment were already been regularized by the order of the Division Bench in **W.A.(MD)No.334 of 2019 & 1521 to 1526 of 2018** dated 02.03.2021 in **S.Shanmugam and others Vs. The Presiding Officer and other**. Therefore, he would contend that the order passed by the respondent is liable to be interfered with.

3. The learned Government Advocate would strongly object the contention of the learned counsel for the petitioners, and would submit that petitioners are not contractual employees and they were employed by the outsourced agencies and there were no employer and employee relationship between the petitioners and the respondents. Therefore, he would submit that the judgement relied by the learned counsel for the petitioners in **W.A.(MD)No.334 of 2019 & 1521 to 1526 of 2018** is not applicable to the



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present case and furthermore, he invited the judgement of the learned Single Judge in W.P.Nos.7259 of 2020 etc batches, wherein this Court has upheld the order of rejection challenged by the similarly placed persons. Thus, he prayed for dismissal of this petition.

4. I have given my anxious consideration to the either side submissions.

5. The short point to be considered in the present case is that whether the petitioner's employment could be regularized or not. It is well settled principle of law that, contrary to the recruitment rules, no public appointment cant be done. Further against illegal and irregular appointment, regularization cannot be undertaken by the Government by virtue of the judgement of the Hon'ble Supreme Court of India in **Secretary, State of Karnataka and others Vs. Umadevi and Others in Civil Appeal No.3595 -3612 of 1999**. However, the learned counsel for the petitioner would rely upon the Division Bench judgement in **Shanmugam's case** (*cited supra*). While perusing the Division Bench order, the fact is distinguishable from the present case.



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6. In the above case, the Division Bench has dealt that the employees who were directly recruited by the Government. But in the contrast, this petitioners are not directly employed by the Government. In the other hand, these petitioners were employed by some 3rd party contractors, who had entered outsourcing contract with these respondents. It is the specific contention of the learned Government Advocate that there is no employer and employee relationship at all. In such background, the contention of the learned Government Advocate that the ratio of **Shanmugam's case** is not be applicable to the present case, is well merited.

7. Furthermore, the learned Government Advocate invited the attention of the order of the learned Single Judge passed in **W.P.Nos.7259 of 2020 etc batches in N.Perumal Vs. The State of Tamilnadu and others**, wherein this Court, in the similar set of facts, after elaborately gone into the factual positions, found that the petitioners are not the contract employees of the Government, so as to invoke the relief provided under G.O.Ms.No.325, Health and Family Welfare (F2) Department, dated 20.11.2012, and the above orders is squarely applicable to the present set



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of facts. Therefore, this Court does not find any merits in the present Writ
Petition.

8. In the result, the Writ Petition stands dismissed. No costs.

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Index :Yes/No
Neutral Citation : Yes
Speaking order : Yes
Sma



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C.KUMARAPPAN, J

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