



W.P.(MD).No.5645 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.5645 of 2023

K.Sivasamy

... Petitioner

VS

1. The Mission Director,
National Rural Health Mission & State Health Society,
359, Anna Salai,
DMS Complex,
Chennai-600 006.

2. The Chairman cum District Collector,
District Health Society,
Thoothukudi District,
Thoothukudi.

3. The Deputy Director of Health Services,
O/o.The Deputy Director of Health Services,
Thoothukudi.

4. The Deputy Director of Health Services,
O/o.The Deputy Director of Health Services,
Kovilpatti,
Thoothukudi District.

... Respondents



W.P.(MD).No.5645 of 2023

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records on the file of the 1st respondent in connection with the impugned order passed by vide his proceedings in Proc.No.7831/P3/NHM/2021 dated 22.02.2023 and quash the same as illegal, arbitrary and consequently direct the respondents to renewal the petitioner service as Accounts Assistant in the office of the 3rd or 4th respondents.

For Petitioner	: Mr.G.Thalamimutharasu
For Respondents	: Mr.S.Shanmugavel, Additional Government Pleader

ORDER

The instant writ petition has been filed by an Accounts Assistant working in the office of the 3rd respondent namely DDHS, Kovilpatti, seeking to quash the order passed by the first respondent on 22.02.2023, wherein the request of the petitioner to extend his services beyond 12.06.2021 has been rejected.

2. On 14.01.2008, the petitioner herein was appointed as Accounts Assistant on contract basis for a period of 11 months, and the contract was renewed periodically. When the term of the petitioner expired on 12.06.2021, a show cause notice was issued to the writ petitioner by the 2nd respondent



W.P.(MD).No.5645 of 2023

herein on 24.06.2021 seeking explanation from the petitioner as to why his services should not be terminated on the basis of certain allegations as against the writ petitioner. The petitioner has submitted his explanation on 25.06.2021. After considering the explanation, the 2nd respondent has passed an order on 07.07.2021, rejecting the explanation of the petitioner and confirming the non extension of services of the writ petitioner.

3. Challenging the order passed by the 2nd respondent dated 07.07.2021, the petitioner has filed an appeal before the 1st respondent on 19.07.2021, since the said appeal was not disposed of, the petitioner has filed W.P.(MD)No.24090 of 2022 for expeditious disposal of the said appeal. This Court by an order dated 19.10.2022 had directed the first respondent to consider the petitioner's appeal and pass order on merits in accordance with law. Thereafter, the petitioner was called for an enquiry by the 1st respondent and the impugned order has been passed on 22.02.2023, rejecting the request of the petitioner for extension of his services. That order is under challenge in the present writ petition.



W.P.(MD).No.5645 of 2023

WEB COPY

4. A perusal of the impugned order reveals that the request of the petitioner for extension of services has been rejected on the ground that the petitioner has over ridden the contract terms and deviated from terms of his appointment. Further, the petitioner is involved in two criminal cases and being not satisfied with the conduct of the petitioner, his services were not extended.

5. According to the learned Counsel appearing for the petitioner, certain allegations are made in the order impugned in the writ petition, the petitioner should have been put on notice. The learned Counsel appearing for the petitioner had relied upon the Division bench order of this Court in W.A.(MD).No.1583 of 2011 dated 08.08.2017, wherein a similar order was set aside by this Court, in favour of the writ petitioner, directing the authorities to give an opportunity to the writ petitioner and thereafter pass orders.

6. The learned Counsel appearing for the petitioner further contends that the criminal cases are not in anyway connected with his employment and those cases were filed to some personal enmity with his relative. Hence, he



W.P.(MD).No.5645 of 2023

has further contended that, under the impugned order, no specific reasons have been pointed out that how the petitioner had over ridden the contract terms and deviated the terms and conditions of his appointment. Hence, he prayed for allowing the writ petition and sought to extent the services of the petitioner.

7. Per contra, the learned Additional Government Pleader appearing for the respondents had contended that before issuing an order of non extension of services, the 2nd respondent had issued a show cause notice to the petitioner, and after considering the explanation offered by the writ petitioner, orders were passed on 07.07.2021. This order has not been challenged by the writ petitioner. Therefore, the present order passed by the Appellate Authority cannot be questioned on the ground that the petitioner was not put on notice. He further pointed out that the appellate authority had issued a notice to the writ petitioner to appear for an enquiry, and only after hearing the petitioner, the present order has been passed. Therefore, he prays for dismissal of writ petition.



W.P.(MD).No.5645 of 2023

WEB COPY

8. I have carefully considered the submissions made on either side and perused the materials available on record.

9. The facts narrated will clearly indicate that the request of the petitioner for extension of services beyond 12.06.2021 were rejected by the 2nd respondent herein by an order dated 07.07.2021. The petitioner has not chosen and challenge the same. The petitioner has filed the present writ petition only challenging the order passed by the appellate authority namely the first respondent herein. The petitioner was granted an opportunity by the 2nd respondent herein, who is the original authority to offer his explanation on the allegations made against the petitioner. The question of issuing another show cause notice by the appellate authority does not arise. The services of the writ petitioner is on contract basis for a period of 11 months, and therefore, the question of seeking extension of services is not a matter of right beyond the period of 11 months and it is solely based on the discretion of concerned authorities. In such circumstances, the authorities have considered the cases pending as against the writ petitioner and the allegations as against the writ petitioner and have chosen not to extend the services. Therefore, there are no merits in this writ petition.



W.P.(MD).No.5645 of 2023

10. With the above said observation, this writ petition stands dismissed.

No costs.

24.10.2024

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

To

1. The Mission Director,
National Rural Health Mission & State Health Society,
359, Anna Salai,
DMS Complex,
Chennai-600 006.

2. The Chairman cum District Collector,
District Health Society,
Thoothukudi District,
Thoothukudi.

3. The Deputy Director of Health Services,
O/o.The Deputy Director of Health Services,
Thoothukudi.

4. The Deputy Director of Health Service,
O/o.The Deputy Director of Health Services,
Kovilpatti,
Thoothukudi District



WEB COPY



W.P.(MD).No.5645 of 2023

R.VIJAYAKUMAR,J.

gvn

W.P(MD)No.5645 of 2023

24.10.2024