



W.P.(MD)No.10768 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2024

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.10768 of 2020

and

W.M.P.(MD).No.9482 of 2020

M.Thangavel

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented its Secretary,
Department of Health and Family Welfare,
Secretariat, Chennai 9.
- 2.The Director of Public Health and Preventive Medicine,
D.M.S.Complex,
Thenampet,
Chennai 6.
- 3.The Deputy Director of Health Services,
Block-1, District Collectorate Back Side,
Theni, Theni District.
- 4.The Block Medical Officer,
Government Primary Health Centre,
Kandamanoor, Theni District.
- 5.The Medical Officer,
Government Primary Health Centre,
Kummanantholu,
Theni District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records connected with the impugned order passed by the second respondent in Na.Ka.No. 112972/ASUNI-7/A3/2020, dated 08.06.2020 and quash the same and consequently direct the respondents to regularize the service of the petitioner with time scale of pay on completion of 2 years of service with monetary and service benefits in terms of G.O.Ms.No.151, Social Welfare and Nutritious Meal Department, dated 16.10.2008, which was followed by the same respondents in G.O.Ms.No.218, Health and Family Welfare Department, dated 28.01.2015 to similarly placed physically challenged persons and in the light of the judgment of this Court filed by one K.Kandasamy in W.P.(MD).No.11258 of 2009, dated 17.08.2011.

For Petitioner : Mr.M.Pounraj

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned order dated 08.06.2020 passed by the second respondent rejecting the petitioner's request for regularization of his service on the ground that G.O.Ms.No.151, Social Welfare and Nutritious Meal Programme Department, dated 16.10.2008, which the petitioner relies upon is not applicable to him.



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WEB COP 2. As seen from G.O.Ms.No.151, Social Welfare and Nutritious Meal Programme Department, dated 16.10.2008, the Government has issued orders to absorb the differently abled persons into regular time scale of pay, who were appointed on consolidated pay and have completed two years of service. Subsequent to the issuance of G.O.Ms.No.151 referred to supra, through the Government letter (Social Welfare and Nutritious Meal Programme Department), dated 04.02.2009, the Government has issued clarification on G.O.Ms.No.151, Social Welfare and Nutritious Meal Programme Department, dated 16.10.2008, stating that the said Government Order is eligible only for the employees, who are appointed on consolidated pay and holding permanent post.

3. Thereafter, through the Government letter (Health and Family Welfare Department) dated 29.08.2019, the Government has further clarified that since Service Rules has not been framed, the post of Multi Purpose Hospital Worker is considered as unclassified post and any appointment in the post of Multi Purpose Hospital Worker is considered as temporary appointment. In the case on hand, the petitioner was appointed as a Multi Purpose Hospital Worker through his appointment order dated 30.04.2013 on daily wage basis. Even though the petitioner is a disable person, G.O.Ms.No.151, Social Welfare and



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Nutritious Meal Programme Department, dated 16.10.2008, which is relied upon by the petitioner makes it clear that it is only applicable for those persons who have been appointed on consolidated pay and there is no reference to daily wage payments in the said Government Order.

4. In fact, the Government has also clarified subsequently through their letter, dated 04.02.2009, referred to supra that G.O.Ms.No.151, Social Welfare and Nutritious Meal Programme Department, dated 16.10.2008, is eligible only for the employees who were appointed on consolidated pay and holding the permanent post, the Government has also issued further clarification on 20.09.2019 through their letter (Health and Family Welfare Department) that since the service rules has not been framed, the post of Multi Purpose Hospital Worker is considered as unclassified post and any appointment in the post of Multi Purpose Hospital Worker is considered as temporary appointment. Admittedly, the petitioner has also not challenged the subsequent letters referred to supra, wherein, it has been clear that G.O.(Ms).No.151 is eligible only for the employees who are appointed on consolidated pay and holding permanent post and the post of Multi Purpose Hospital Worker is considered as unclassified post and any appointment in the post of Multi Purpose Hospital Worker is considered as temporary appointment.



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WEB COPY 5. For the foregoing reasons, this Court is of the considered view that there is no merit in the Writ Petition and accordingly, the same stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

29.08.2024

NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

To

- 1.The Secretary,
State of Tamil Nadu,
Department of Health and Family Welfare,
Secretariat, Chennai 9.
- 2.The Director of Public Health and Preventive Medicine,
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Thenampet,
Chennai 6.
- 3.The Deputy Director of Health Services,
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WEB COPY



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+ABDUL QUDDHOSE, J.

TSG

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