



W.A(MD) No.856 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.11.2024

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MS.JUSTICE R.POORNIMA**

W.A(MD) No.856 of 2019

K.Sankaranarayanan

... Appellant / Petitioner

Vs

- 1.State Planning Commission,
Rep. by its Chairman,
Ezhilagam, Chepauk,
Chennai-600 005.
- 2.The Government of Tamil Nadu,
Rep.by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
- 3.The Principal Secretary,
Department of School Education,
Secretariat,
Chennai-600 009.
- 4.The Principal Secretary / Commissioner,
Department of Indian Medicine and Homeopathy,
Arignar Anna Hospital Campus,
Arumbakkam,
Chennai-600 106.



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5. The Chief Educational Officer,
Tirunelveli District,
Collectorate Compound,
Kokkirakulam,
Tirunelveli.

... Respondents / Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying this Court against the Order dated 01.07.2019 passed in W.P.(MD)No. 9254 of 2011.

For Appellant : Mr. Ananth C. Rajesh

For Respondents : Mr. M. Siddharthan
Additional Government Pleader

ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The petitioner is a degree holder in siddha medicine. He passed out of Government Siddha Medical College at Palayamkottai. The petitioner registered himself with the siddha medical council at Chennai. The petitioner was engaged to work under what is known as School Children Health Check-up Scheme in the year 1996. He worked as part-time employee for over 15 years. The scheme itself was wound up in the year 2009. The petitioner applied for being absorbed in the health department. In fact, the education department also endorsed the request



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of the petitioner herein. Though the scheme employees such as drivers, accountants, clerks etc., were absorbed by the health department, doctors such as the petitioner herein were left out. Seeking regularization as assistant medical officer (Siddha) in any one of the institutions run by the Health and Family Welfare Department by the Government of Tamil Nadu, the appellant herein filed W.P.(MD)No.9254 of 2011. The respondents filed counter affidavit opposing the writ prayer. After hearing both sides, the learned Single Judge vide order dated 01.07.2019 dismissed the writ petition. Questioning the same, this intra-court appeal came to be filed.

3. The learned counsel appearing for the appellant / writ petitioner reiterated all the contentions set out in the memorandum of grounds of writ appeal. His core argument is that the appellant was employed for a long period of 15 years and that therefore he had a legitimate expectation. He also submitted that when the other scheme employees have been absorbed by the health department, there was no justification in leaving out the petitioner. He called upon this Court to set aside the order impugned in the writ appeal and allow the writ appeal as prayed for.



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4. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that the impugned order is well reasoned and that it does not call for interference.

5. We carefully considered the rival contentions and went through the materials on record. It is not in dispute that the petitioner was engaged only as a part-time employee. It is true that the engagement continued for a number of years. But mere engagement for a number of years as part-time employee will not entitle one to seek regularization or absorption.

6.As rightly pointed out by the learned Additional Government Pleader, the appointment to the post of Assistant Medical Officer (Siddha) is governed by the statutory rules. The petitioner was only working as a part time employee and that too under a scheme. The petitioner has no legal right as such to be absorbed. Paragraph Nos.4 & 5 of the order dated 01.07.2019 in W.P.(MD)No.9254 of 2011 read as follows:-



5. This being the procedures to be followed, mere engagement of the writ petitioner under the School Children Health Check-up Scheme would not confer any right on him to seek permanent appointment by filing of the Writ Petition. Thus, the writ petitioner has not made out any acceptable legal grounds nor established any legal right, so as to consider the relief as such sought for in the present Writ Petition. Accordingly, this Writ Petition stands dismissed.”

(G.R.S., J.) (R.P., J.)
20.11.2024

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To
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- 1.The Chairman,
Ezhilagam, Chepauk,
Chennai-600 005.
- 2.The Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
- 3.The Principal Secretary,
Department of School Education,
Secretariat,
Chennai-600 009.
- 4.The Principal Secretary / Commissioner,
Department of Indian Medicine and Homeopathy,
Arignar Anna Hospital Campus,
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- 5.The Chief Educational Officer,
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AND
R.POORNIMA, J.

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