



W.A.(MD) No.464 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.04.2024

CORAM

**JUSTICE N. SESHASAYEE
and
JUSTICE P.VADAMALAI**

W.A.(MD) No.464 of 2018

T.Raj

... Appellant/
Petitioner

Vs.

1.The State of Tamil Nadu,
Rep., by its Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai-9.

2.The Director of Public Health and
Preventive Medicine,
DMS Compound, Teynampet, Chennai-6.

3.The Deputy Director,
Medical and Rural Health Services and
Family Welfare,
Tirunelveli-3.

4.The Medical Officer,
Government Primary Health Centre,
Ukkirankottai.

... Respondents/Respondents



W.A.(MD) No.464 of 2018

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Prayer: Appeal filed under Clause 15 of Letters Patent against the order dated 31.07.2017 made in W.P.(MD) No.14164 of 2017.

For Appellant : Mr.D.Selva Vinayagam
For Respondents : Mr.A.Baskaran
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by **N.SESHASAYEE, J.**)

The appellant herein has moved this Court with a writ petition challenging an order passed by the 2nd respondent, dated 28.12.2012 terminating his services as a contracted driver for hospitals and also for certain ancillary reliefs. A learned Single Judge of this Court, *vide* his order dated 31.07.2017, dismissed the writ petition holding that the appellant might not be entitled to claim reinstatement of his services, since he was only a contracted employee and that he has not been appointed by following the rules of appointment. The learned Single Judge has also observed that the appellant has not challenged the order of termination either. This order is now under challenge in this writ appeal.



W.A.(MD) No.464 of 2018

WEB COPY

2. Learned counsel for the appellant submitted that the order of termination indeed had been challenged, and submitted that the appellant is entitled to be reinstated in view of the authority of the Full Bench in ***M.Sivappa Vs State of Tamil Nadu*** [2024 (2) CTC 1]. In particular, the learned counsel placed reliance on G.O.Ms.No.22, dated 28.02.2006, which directed regularisation of all temporary employees, who had completed ten years of service and also G.O.Ms.No.74, dated 27.06.2013 which restricted right of *vis-a-vis* some 86 categories of posts. He also submitted that the rule of “equal pay for equal work” as between the temporary workers/contracted workers and the pay scale for regular scale has been flouted.

3. The learned Additional Government Pleader submitted that the post of driver is not one among the 86 posts listed in G.O.Ms.No.74, dated 27.06.2013 and at any rate, the appellant cannot seek reinstatement as he was not appointed as per rules providing for appointment.

4. After weighing the rival submissions, this Court accepts part of the submissions of both sides. Inasmuch as the appellant has worked as a driver



W.A.(MD) No.464 of 2018

in terms of a certain contract entered into by the authorities with an out sourced contractors, he may not be entitled to claim reinstatement of his post. So far as his claim for equal pay for the equal work done is concerned, that issue is left open, as it is not reflected adequately in the order under challenge. The appellant is therefore free to approach the authority seeking equal pay for equal work. As and when this application is made by the appellant, the authorities are required to consider the same and dispose of it strictly in accordance with law.

5. Subject to the observations herein above made, the Order of the learned Single Judge does not warrant any interference. Accordingly this appeal is dismissed. No costs.

(N.S.S., J.) (P.V.M., J.)
15.04.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes
ABR



W.A.(MD) No.464 of 2018

WEB COPY

To

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W.A.(MD) No.464 of 2018

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W.A.(MD) No.464 of 2018

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