



W.A.(MD) Nos.817 & 818 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.07.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A.(MD) Nos.817 & 818 of 2018

and

C.M.P.(MD) Nos.4867, 4868 of 2018 & 178, 179 of 2019

R.Bharathi

... Appellant in W.A.(MD)
No.817 of 2018

N.Sasikala

... Appellant in W.A.(MD)
No.818 of 2018

-VS-

1.The Medical Officer
Head Quarters Dispensary
TNEB / TANGEDCO
N.P.K.R.R.Maligai
Anna Salai, Chennai-2

2.The Superintending Engineer
O/o.The Superintending Engineer
Generation Circle
Maharaja Nagar
Tirunelveli-11



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3.The Executive Engineer
Periyar Power Houses
TANGEDCO
Periyar Project, Lower Camp
Uthamapalayam Taluk
Theni District-625 625

4.The Tamilnadu Nurses &
Midwives Council
rep.by its Registrar
Old No.140, New No.56
Santhome High Road, Chennai
[R4 is impleaded vide Court order
dated 09.07.2024 in C.M.P.(MD)
Nos.6603 & 6604 of 2019]

... Respondents in
both W.As.

PRAYER (in W.A.(MD) No.817 of 2018) : Writ Appeal filed under Clause 15 of
Letters Patent to set aside the order, dated 29.01.2018, passed in W.P.(MD)
No.17277 of 2016, on the file of this Court.

PRAYER (in W.A.(MD) No.818 of 2018) : Writ Appeal filed under Clause 15 of
Letters Patent to set aside the order, dated 29.01.2018, passed in W.P.(MD)
No.17278 of 2016, on the file of this Court.

For Appellant : Mr.S.Louis
(in both W.As.)

For Respondents : Mr.B.Ramanathan
(in both W.As.) for TANGEDCO for R1 to R3
Ms.Sri Swetha
for Mr.D.Kirubakaran for R4



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COMMON JUDGMENT

[Judgment of the Court was made by A.D.JAGADISH CHANDIRA, J.]

These intra-court appeals have been directed as against the order of the learned Single Judge, dated 29.01.2018, passed in W.P.(MD) Nos.17277 & 17278 of 2016, dismissing the writ petitions filed by the appellants / writ petitioners challenging the order dated 02.08.2016, passed by the second respondent herein terminating the services of the appellants, who were working as Maternity Assistants in the Dispensaries run by the TANGEDCO.

2. It is the case of the appellants that they were originally appointed as Maternity Assistants on outsourcing basis. The appellant – Bharathi had undergone Auxiliary Nurse Midwifery Course offered by Tamil Nadu Adi Dravidar Housing and Development Corporation Ltd., Theni and Bodi Paraa Medical College, Bodinayakanur. The appellant – Sasikala had completed the Nursing Assistant Training Course conducted by the Centre for Entrepreneurship Development. Their engagement as Maternity Assistant was originally renewed and later, by order dated 11.02.2016, the services of the appellant – Bharathi were renewed for a period of one year and by order dated 30.10.2015, the services of the appellant – Sasikala were renewed for a period



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of one year. While so, the services of both the appellants were terminated, on the ground that the courses undergone by them were not approved by the Nursing Council of India. Contending that they were terminated before the contractual period is over and without prior notice, the appellants had challenged their disengagement.

3. The learned Single Judge, finding that the appellants were appointed as Medical Assistants only on outsourcing basis and that the terms of engagement was contractual in nature, the post in which they were appointed was not a regular post and they had also failed to prove that the courses undergone by them were approved by the Nursing Council of India, had dismissed the writ petitions, however directed the respondents to pay salary to them for the unexpired period of their services. Aggrieved over the same, they have filed the present writ appeals.

4. Learned counsel for the appellants would submit that the appellant – Sasikala had undergone the training at the Centre for Entrepreneurship Development and she has been awarded the Nursing Assistant Training Course. Further, the appellant – Bharathi had undergone Auxiliary Nurse Midwifery Course offered by the Tamil Nadu Adi Dravidar



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Housing and Development Corporation Ltd., Theni and Bodi Paraa Medical College, Bodinayakanur and the appellants are qualified to work as Nurse. Whereas, the respondents, even prior to the expiry of the contractual period and without prior notice, have terminated their services. The learned Single Judge, without considering the educational qualification of the appellants, had dismissed the writ petitions, thereby, he would seek to set aside the order passed by the learned Single Judge as well as the order passed by the second respondent.

5. Learned counsel appearing for the respondent – TANGEDCO, on instructions, would submit that the appellants were appointed on outsourcing basis. The courses undergone by them are not approved and recognized by the Nursing Council of India, thereby, the respondent – TANGEDCO, finding that they are not qualified, terminated their services. Insofar as the appellant – Sasikala is concerned, she was again engaged for the remaining period from 12.01.2017 to 12.04.2017 and insofar as the appellant – Bharathi is concerned, she was again engaged for the remaining period from 06.01.2017 to 20.07.2017, which includes the break period due to termination and after the said period, both of them were disengaged, thereby, the order of the learned Single Judge was complied with by the respondent –



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TANGEDCO. He would further reiterate that since the appellants were not qualified, their services were not continued further.

6. Learned counsel appearing for the impleaded fourth respondent, on instructions, would submit that the courses undergone by the appellants are not recognized by the Nursing Council of India. The Tamil Nadu Nursing Council had issued a paper publication in Daily Thanthi on 12.06.2016 stating that the Nursing Council of India has issued a Circular warning the general public that Bharath Sevak Samajin Training Course offered by the Ministry of Labour is not recognized by the Nursing Council of India and that the said course cannot be registered before the State Nursing Council and has also given a list of courses, which were not recognized by the Nursing Council of India.

7. Heard the learned counsel on either side and carefully perused the materials available on record.

8. On a perusal of the materials available on record shows that the courses undergone by the appellants are not recognized by the Nursing Council of India and therefore, they are not eligible for continuing in service,



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thereby, the respondent – TANGEDCO have rightly disengaged the appellants on coming to know that they are not qualified. The learned Single Judge, finding that the appellants do not possess the requisite educational qualification, has rightly dismissed the writ petitions. Though the appellants claim that they are qualified and possessing the requisite educational qualification, they have not produced any material either before the learned Single Judge or before us to show that the courses undergone by them are recognized by the Nursing Council of India. Hence, we do not find any infirmity or irregularity in the order passed by the learned Single Judge.

9. Accordingly, the writ appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[A.D.J.C., J.]

[K.R.S., J.]

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NCC : Yes / No
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