



W.P(MD)No.24860 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2024

CORAM

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P(MD)No.24860 of 2022

V.Saraswathi

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary to
Government,
Health and Family Welfare Department,
Secretariat, Fort St. George,
Chennai.

2.The Director of Medical Education,
No.167, E.V.R Periyar Salai,
Kilpauk, Chennai-10.

3.The Dean,
Thoothukudi Government Medical College,
Thoothukudi.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the third respondent in connection with the impugned order passed by him in Ref.No.961/P&D/2020, dated 27.03.2020 and quash the same as illegal, arbitrary and thereby direct the respondents more particularly



W.P(MD)No.24860 of 2022

the first respondent to regularize the petitioner service in the post of Hospital Worker / Sanitary Worker, in the third respondent Medical College Hospital by extending the benefit of G.O(Ms)No.325, Health and Family Welfare (C1) Department, dated 11.09.2017 within the time limit that may be stipulated by this Court and pass any such further or other orders as this Court.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by
Mr.M.Senthil Ayyanar

ORDER

This writ petition has been filed to quash the order, dated 27.03.2020 passed by the third respondent and thereby direct the respondents more particularly the first respondent to regularize the petitioner service in the post of Hospital Worker/Sanitary Worker, in the third respondent Medical College Hospital by extending the benefit of G.O(Ms)No.325, Health and Family Welfare (C1) Department, dated 11.09.2017 within the time limit that may be stipulated by this Court.

2. In a similar case, the Hon'ble Division Bench of this Court in W.A(MD)No.840 of 2022, dated 09.09.2024 by following the Full Bench



W.P(MD)No.24860 of 2022

decision in ***M.Sivappa Vs. The State of Tamil Nadu and four others [W.P.No.23823 of 2023 dated 26.02.2024]*** has held that the petitioners are entitled for regularization of the service in accordance with the applicable Government orders and to bring them under time line of pay at the earliest, if they are found otherwise eligible by relaxing necessary rules.

3. The relevant portion of the Hon'ble Division Bench order is extracted hereunder and the same is reads as follows:

*"3. Recently, the question as to whether the Government would be entitled to make temporary appointments was considered by a Full Bench of this Court in **M.Sivappa Vs. The State of Tamil Nadu and four others [W.P.No.23823 of 2023, dated 26.02.2024]**, to which, one of us (R.SUBRAMANIAN, J.) was a party. After considering the scope of G.O(Ms)No.74, dated 27.06.2013 and G.O(Ms)No.22, dated 28.02.2006, the Full Bench had held that if the appointment is made to any one of the 86 categories of posts enumerated in the Tamil Nadu Basic Service, immaterial of the fact that whether the appointment is part time or full time, the employees would be entitled to regularization. It is not in dispute that the post in which the writ petitioners are working is one of the posts found in the Tamil Nadu Basic Service and therefore, recruitment of temporary employees in such posts*



W.P(MD)No.24860 of 2022

*itself will be in violation of the judgment of the Hon'ble Supreme Court in **State of Karnataka Vs.Umadevi** reported in (2006) 4 SCC 1. Since the writ petitioners have been appointed to full time posts which are governed by the Tamil Nadu Basic Service Rules, the authorities cannot resort to outsourcing of those posts with a view to ease out the writ petitioners. We therefore, find no merit in the appeal."*

4. In view of the above facts and circumstances of the case and the ratio laid down by the Hon'ble Full Bench followed by the Division Bench of this Court and also in the light of the G.O(Ms)No.325, Health and Family Welfare (C1) Department, dated 11.09.2017, this matter shall also be considered by the first respondent.

5. This writ petition stands disposed of with the above observations. There shall be no order as to costs.

28.10.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To



W.P(MD)No.24860 of 2022

WEB COPY

- 1.The Secretary to Government,
The State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Fort St. George,
Chennai.
- 2.The Director of Medical Education,
No.167, E.V.R Periyar Salai,
Kilpauk, Chennai-10.
- 3.The Dean,
Thoothukudi Government Medical College,
Thoothukudi.

J.SATHYA NARAYANA PRASAD, J.



WEB COPY



W.P(MD)No.24860 of 2022

BTR

W.P(MD)No.24860 of 2022

28.10.2024