



WEB COPY

W.A.No.1262 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G. ARUL MURUGAN

W.A.No. 1262 of 2025
and CMP No.9536 of 2025

1. The State of Tamil Nadu,
Rep by its chief Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai 600 009.

2. The Director of Medical Education,
Kilpauk, Chennai 600 010.

3. The Dean,
Government Stanley Hospital,
Chennai 600 001.

... Appellants

Vs.

N. Nagendran

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside
the order passed in WP No.6142 of 2023 dated 04.09.2023.



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For Appellants : Ms.M.Sneha
Special Counsel

For Respondent : Mr.Ashok Menon

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

We see no reason to interfere with the order impugned in the Writ Petition. The respondent was appointed as a Substitute Worker even in the year 1988 in the Government Stanley Hospital. Subsequently, he was transferred to Government Peripheral Hospital at Tondiarpet. The other 25 Substitute Workers, who were appointed along with the respondent were regularized by G.O.Ms.No.8 dated 31.07.2008 with effect from 31.05.1994, viz. the date on which they were appointed as Hospital Workers.

2. While forwarding the names of the Substitute Workers to be regularized, since the respondent was transferred to some other Hospital, his name was omitted to be included. Soon after passing a G.O.Ms.No.8 dated 31.07.2008, the Medical Superintendent of Government Stanley Hospital,



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addressed to the Director of Medical Education on 22.06.2010 pointing out that the names of the respondent and the another person have been omitted to be included in the list of Substitute Workers, though they were appointed along with the other workers and they were fully qualified for such appointment on the date of their appointment. The Medical Superintendent also sought for regularization of the services of the respondent. The Director of Medical Education forwarded the said request to the Government on 23.05.2011/27.05.2011.

3. Almost after seven years, the Secretary Health, Government of Tamil Nadu, passed the order impugned regularizing the services of the respondent with effect from the date of issuance of the order viz. 14.08.2018. It is this action of the Government which was the subject matter of challenge in the Writ Petition in WP No.6142 of 2023.

4. The Writ Court found that non-inclusion of the name of the respondent in the list of employees, who were to be regularized was a mistake of the Authorities and the respondent cannot be blamed for that.



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The Writ Court made a specific reference to the communication from the Medical Superintendent of Government Stanley Hospital dated 22.06.2010, wherein it has been clearly stated that the respondent was qualified for the post and he was also within the age limit prescribed on the date of the appointment.

5. The Writ Court also found that the order impugned in the Writ Petition proceeded on the basis that the respondent was over aged on the date of appointment and therefore, he needs relaxation of the age which is factually incorrect. Therefore, the learned Single Judge set aside the order impugned and directed regularization with effect from 08.06.1994 viz. the date on which, the respondent was appointed as a Hospital Worker, which was a regular post.

6. We have heard Ms.Sneha, learned Special Counsel appearing for the appellant.

7. Ms.Sneha, learned Special Counsel would vehemently contend



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that the other substitute workers were regularised on 31.07.2008 and the respondent was left out. Since the respondent has not chosen to challenge the said order, he cannot claim the same benefit now, when his services were regularised with effect from a subsequent date nearly after 10 years. We are unable to accept the said submission.

8. The original order regularising the other Substitute Workers was passed on 31.07.2008 and the Medical Superintendent of Government Stanley Hospital as early as on 22.06.2010 recommended regularization of the services of the respondent on the same term as was done in G.O.Ms.No.8 dated 31.07.2008. The said recommendation was also forwarded by the Director of Medical Education to the Government on 23.05.2011/27.05.2011. The Government sat over it for more than seven years and finally came up with the order impugned in the Writ Petition stating that the appointment is irregular and it requires the relaxation.

9. In fact while regularising the services of the other employees vide G.O.Ms. No.8 dated 31.07.2008 these grounds were not even considered.



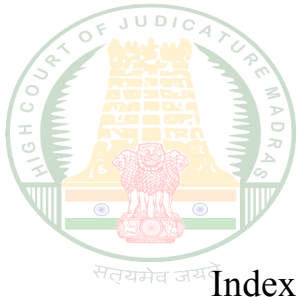
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All the workers were regularized and it was also observed that the appointments have been made by calling for applications through the Employment Exchange. Therefore, we find that the order impugned in the Writ Petition has been passed on a completely erroneous understanding of the facts of the case. Once persons, who were appointed along with the respondent had been conferred a certain benefits, the respondent should also be treated alike. There cannot be a separate or a differential treatment for the persons who are similarly placed, that too by a Welfare State.

10. Hence, we see no reason to interfere with the order of the Writ Court, the Appeal fails and it is accordingly dismissed. The appellants are granted eight weeks' time to comply with the orders of the Writ Court. We request the learned Single Judge to defer the contempt by eight weeks. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) (G. ARUL MURUGAN, J.)
17.04.2025

jv



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Index : No
Neutral Citation : No
Speaking order

To

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