



W.P.No.20821 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2025

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

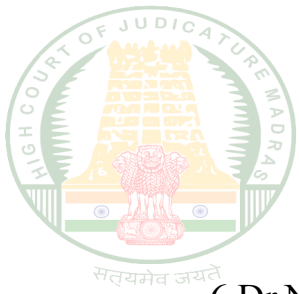
W.P.No.20821 of 2018 and
W.M.P.Nos.24436 & 24437 of 2018

S.Kiruba Thomas

... Petitioner

Vs.

- 1.The State Rep by
Principal Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.
- 2.The Medical Service Recruitment Board,
Rep. by its Member Secretary, 7th Floor,
DMS Building, No.359, Anna Salai,
Thenampet, Chennai 600 006.
- 3.The Commissioner,
Indian System of Medicine and Homeopathy,
Arignar Anna Government Hospital,
Arumbakkam, Chennai 600 106.
- 4.The Vice Chancellor,
Tamil Nadu Dr.M.G.R. Medical University,
Guindy, Chennai - 600 032.
- 5.The Principal,
Government Yoga and Naturopathy Medical College,
Chennai 600 106.



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- 6.Dr.N.Manavalan
7.Dr.R.S.Himeshwari
8.Dr.S.T.Venkateswaran
9.Dr.K.Arul Prakasam
10.Dr.N.Mangalakarasi
11.Dr.Deepa
12.Dr.K.S.Lakshmi
13.Dr.L.Radhika
14.Dr.T.Prabhu
15.Dr.Indira Devi Subramanyam
16.Dr.K.Kahlil Subramanyan
17.Dr.S.Gokulakrishnan
18.Dr.K.Kanimozhi
19.Dr.S.Sadhana
20.Dr.R.Latha
21.Dr.S.Aravind
22.Dr.K.Dhanalakshmi

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the Indian Medicine and Homeopathy Regularisation of Temporary Services of the 17 Assistant Medical Officers in G.O.(2D).No.85, Health and Family Welfare (IM2-1) Department dated 09.07.2018 issued by the first respondent herein and quash the same as illegal, ultravirus, arbitrary and consequently direct the respondents 1 to 4 to issue the public notification to appoint the post of Assistant Medical Officers / Lecturer Grade II (Yoga and Naturopathy) in the Government Medical College.



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For Petitioner : Mr.N.Rajavanniyan

For Respondents : Mr.Tippusultan, GA for R1, R3 to R5
Mr.L.Murugavelu for R2
Mr.G.Arumugam for R4
Mr.R.S.Raveendhren for RR6 to 22

ORDER

This Writ Petition has been filed to call for the records pertaining to the Indian Medicine and Homeopathy Regularisation of Temporary Services of the 17 Assistant Medical Officers in G.O.(2D).No.85, Health and Family Welfare (IM2-1) Department dated 09.07.2018 issued by the first respondent herein and quash the same as illegal, ultravires, arbitrary and consequently direct the respondents 1 to 4 to issue the public notification to appoint the post of Assistant Medical Officers / Lecturer Grade II (Yoga and Naturopathy) in the Government Medical College.

2. Heard Mr.N.Rajavanniyan, learned counsel for the petitioner, Mr.Tippusultan, learned Government Advocate for R1, R3 to R5, Mr.L.Murugavelu, learned counsel for R2, Mr.G.Arumugam, learned counsel for R4 and Mr.R.S.Raveendhren, learned counsel for R6 to R22 and perused the materials available on record.



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3. The learned counsel for the petitioner submitted that the petitioner was working in the Primary Health Centre, Kuttakuzhi in Kanniyakumari District on a consolidated salary. The private respondents who have been regularised does not have the required qualification. The communal reservations and constitutional requirement in the principles of public employment was not followed while regularisation. The rule of equity in public employment is a basic feature of the Constitution and the authority has not envisaged any employment outside this constitutional scheme and without following the requirement of the communal reservation. But the same was not adopted in the case of the private respondents. No appointment can be regularised contrary to the statutory adhoc rules as well as the employment of Government Servant Appointment Rules in compliance of Article 14 and 16 of the Constitution of India.

4. The learned Government Advocate for the respondents 1,3 and 5 submitted that the petitioner has no locus standi to file this Writ Petition. The Government has sanctioned certain additional posts among other



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posts to the Government Yoga and Naturopathy Medical College, Chennai by issuing Government Order in G.O.Ms.No.312, Health and Family Welfare Department dated 24.09.2008 and sanctioned Yoga and Naturopathy Wings in Primary Health Centres vide G.O.(2D).Nos.156 and 157, Health and Family Welfare Department dated 15.12.2008. In order to make the wings functioning, the posts were filled up on temporary basis. The Government has permitted to fill up the posts through the Employment Exchange and by following all the due procedures.

5. The appointments have been made in view of the proposal of the Government to regularise the temporary service. A Government Order has been issued in G.O (2D).No.85 dated 09.07.2018 to regularise certain posts. The petitioner did not have any *locus standi* to challenge the said regularisation because at the time she was working in some other Society in another scheme.

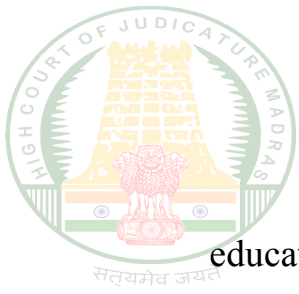


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6. The petitioner has been engaged as an AYUSH Consultant in the year 2015. The nomenclature of the post of Consultant under NRHM Scheme has been re-designated as AYUSH Medical Officer and they have been brought under the consolidated pay from the year 2017. As the petitioner was working in some other scheme and who has left her job in the year 2018 itself, cannot have any locus standi to file this Writ Petition.

7. As per the adhoc rules framed for the post of Assistant Medical Officer / Assistant Lecturer (Yoga and Naturopathy) vide G.O.Ms.No.23 Health and Family Welfare Department dated 28.01.2015, a proposal for regularisation of the respondents 6 to 22 have been submitted. The Government in consultation with Medical Services Recruitment Board had regularised their temporary services from the date of joining in the regular time scale of pay by issuing G.O.(2D) No.85, Health and Family Welfare Department dated 09.07.2018. In fact, the private respondents have been recruited through the Employment Exchange seniority,



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educational qualification, age, communal rotation etc., under National Rural Health Scheme on hiring basis as part-time workers.

8. In the newly established Yoga and Naturopathy Clinics, there was a need for the post of Assistant Medical Officer (Yoga and Naturopathy). Hence, the Government has permitted the third respondent / the Commissioner of Indian System of Medicine and Homeopathy to absorb the candidates working under NRHM scheme by issuing the Government Order in G.O.(D) No.848, Health and Family Welfare Department dated 20.08.2014. As per the said Government Order, the consultants who were working under NRHM scheme have been appointed on temporary basis till the regular candidates are recruited through Tamil Nadu Public Service Commission. The vacancies in NRHM will be filled up through the candidates sponsored through employment Seniority by following communal rotation as done earlier.

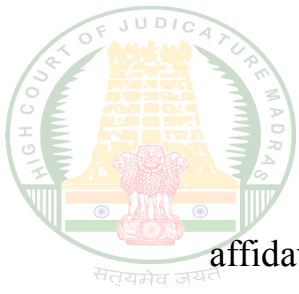
9. Accordingly, out of 49 posts of Assistant Medical Officers sanctioned to Yoga and Naturopathy Life Style Clinics, 38 posts have



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been filled up by absorbing the Yoga and Naturopathy Consultants engaged under NRHM scheme on temporary basis as Assistant Medical Officer. In the meanwhile, the Government had framed adhoc rules for the post of Assistant Medical Officer-cum-Assistant Professor *vide* G.O.Ms.No.23 dated 28.01.2015 and the said post has been further re-designated as Assistant Lecturer and Lecturer Grade II. As per Rule 12 of adhoc rules for the post of Assistant Medical Officer / Assistant Lecturer, it is applicable to the holders of the posts who have been appointed on temporary basis in the year 2014. 51 persons who have been recruited under NRHM Scheme have been absorbed by following the conditions stipulated by the Government and the temporary services of the respondents 6 to 22 have been regularised.

10. On perusal of the records, it is seen that the petitioner was said to be working in the Primary Health Centre in Kanniyakumari District for consolidated salary for the past three years and she did not work under NRHM Scheme and also the petitioner has not worked along with the private respondents. The petitioner has not stated anywhere in the



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affidavit that how she is related to the scheme through which the private respondents are appointed and continued to be in service and got their regularisation. The petitioner appears to be made a fancy claim though she is not able to establish any cause of action to maintain this Writ Petition by claiming parity with the respondents 6 to 22.

11. In view of the above stated reasons, **this Writ Petition is dismissed.** Consequently, connected miscellaneous petitions are closed.

No costs.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

gsk

To

1.The Principal Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai - 600 009.

2.The Member Secretary,
The Medical Service Recruitment Board,
7th Floor,
DMS Building, No.359, Anna Salai,
Thenampet, Chennai 600 006.

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