



W.P.Nos.23975 of 2025 and etc.,

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.23975, 23979, 26608, 26674, 26679, 26683, 26689, 27059, 27060, 27064, 27065, 27067, 27068, 27070, 27071, 27073, 27075, 27077, 27079, 31518, 31526, 31573, 31595, 31602, 31616, 31632, 41929 of 2025

W.P.No.23975 of 2025:-

1. F.Priya Devi
 2. M.Thaslim Fathima
- ... Petitioners

-Vs-

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai-09.
 2. The Director,
Medical and Rural Health Services,
DMS Building, Annasalai,
Teynampet,
Chennai-06.
 3. The Chairman,
Medical Services Recruitment Board (MRB),
7th Floor, DMS Building,
Anna Salai, Teynampet,
Chennai-06.
- ... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, to direct the respondents to absorb the petitioners as Staff Nurse on regular time scale of pay from the date of their initial appointment.



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In all W.Ps

For Petitioners : Mr.K.Venkataramani, Senior Counsel
for Mr.S.Sivakumar

For R1 and R2 : Mrs.M.Sneha
Special counsel for Health Department

For R3 : Mr.L.Murugavelu
Standing Counsel

COMMON ORDER

These writ petitions have been filed for direction directing the respondents to absorb the petitioners as Staff Nurse on regular time scale of pay from the date of their initial appointment.

2. The issue in all the writ petitions are one and the same. Hence, this Court is inclined to pass a common order.

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

4. The petitioners are fully qualified and eligible to apply for the post of Staff Nurse in the direct recruitment in Medical and Para Medical or non-Medical category. The appointments were made either through Tamil Nadu



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Public Service Commission or through Employment Exchange. The Government had formed a separate recruitment board viz., Medical Services Recruitment Board vide G.O.No.1 dated 02.01.2012 and framed Rules as Rules of Procedure of the Medical Services Recruitment Board, 2013. Accordingly, a notification was issued on 19.04.2015. However, the entire selection process was on fault and it was failed to follow the communal reservation. Therefore, second notification was issued on 07.02.2019 for a total vacancy of 2345. The petitioners had applied for the post of Staff Nurse and participated in the selection process. After succeeding in their examinations, they were directed to appear for certificate verification. Thereafter, the respondents had appointed 2580 candidates on contract basis, by an order dated 29.11.2019, including the petitioners. They were insisted to work for minimum of two years on contract basis and thereafter, they were said to be brought under regular post.

5. The petitioners were appointed as Staff Nurse after undergoing regular selection process and their appointment was on contract basis, which is illegal. Therefore, similarly placed persons made representations seeking regularization from the date of their appointment. It was rejected by an order dated 11.05.2022 by relying upon G.O.No.230 dated 04.09.2001, which was issued prior to formation of Medical Recruitment Board. The said order was challenged before



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this Court and the same was allowed and this Court directed to regularize them into regular time scale of pay with effect from the date of their initial appointment.

6. The case of the petitioners are that they made representations and the same was not considered so far.

7. The learned Standing Counsel appearing for the third respondent filed a counter stating that the prayer of the petitioners to regularize their services is no way connected to the third respondent and it is a subject matter which comes under the purview of the second respondent who is the appointing authority of the petitioners. However, the first and second respondents did not file any counter.

8. Mrs.M.Sneha, the learned Special Counsel for the Health Department appearing for the respondents 1 and 2 submitted that the persons who were appointed during the year 2016 on contract basis and on consolidated salary submitted representations for regularization of their services. It was rejected and the same was challenged before this Court in a batch of writ petitions. This Court by an order dated 23.07.2024 in W.P.Nos.22439 of 2022 and batch,



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allowed the writ petitions. Aggrieved by the same, now the second respondent preferred an appeal and it is pending. However, pending writ appeal, the petitioners' services were regularized from the date of their initial appointment. She further submitted that the petitioners were appointed on contract basis under consolidated salary. Therefore, their appointment is completely different from the regular appointed nurses on regular time scale of pay.

9. Though it was stated that their services will be regularized after completion of two years of service, it depends upon the availability of vacancies. Therefore, whenever the petitioners are coming under the zone of consideration under the arising vacancy, they will be considered for regularization on regular time scale of pay. Therefore, the request made by the petitioners cannot be considered.

10. She further submitted that those who were under the reserved list as per the notification dated 07.02.2019 were appointed during Covid-19 pandemic circumstances. Out of 8136 candidates sponsored by the Medical Recruitment Board as adhoc Nurses during the pandemic, 3780 Nurses initially joined, out of which 3485 Nurses had worked for more than a year and 3184 Nurses were terminated with 818 terminations on 31.03.2022. Subsequently, the services of



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2366 adhoc contractual Nurses were not extended. It was challenged before this Court in a batch of writ petitions and aggrieved by the same, the second respondent filed writ appeals.

11. The Hon'ble Division Bench of this Court observed the counter filed by the second respondent in a batch of writ petitions and observed that to examine the absorption of these Nurses, who were engaged on adhoc basis, it has to be seen whether their recruitment was based on Merit and Communal Roster into contractual basis Nurses posts and whether it was done in a phased manner. Accordingly, those Nurses who have been appointed on contractual basis were ousted from services, on the ground that they were appointed without following communal roster. The second respondent in a batch of writ petitions stated that they would be considered for future vacancies as per roster. On the undertaking given by the second respondent, the writ appeals were disposed of.

12. Therefore, whenever vacancies arise in the future, the petitioners will be absorbed in the regular vacancy and on regular time scale of pay. This Court had already dealt with this issue in a batch of writ petitions in W.P.Nos.22439 of 2022 and etc., dated 23.07.2024 wherein, the petitioners in those cases were appointed in the year 2016, on contractual basis and also on consolidated salary.



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The second respondent in the writ petitions were directed to regularize them in their respective posts and to absorb them into regular time scale of pay with effect from the date of their initial appointment with all consequential service benefits, based on their seniority.

13. Admittedly, all the petitioners were selected through Medical Recruitment Board in the regular vacancy. Therefore, they cannot be placed under contractual basis or whatsoever. They were appointed in the sanctioned post and existing vacancy of post by following due selection process. However, they were not regularized so far and they were paid only consolidated salary of Rs.18,000/-.

14. The Hon'ble Supreme Court of India in ***SLP(C) No.22241-42 of 2016*** by an order dated ***30.01.2024*** in the case of ***Vinod Kumar & ors Vs. Union of India & ors*** held as follows :-

“7. The judgement in the case Uma Devi (supra) also distinguished between "irregular" and "illegal" appointments underscoring the importance of considering certain appointments even if were not made strictly in accordance with the prescribed Rules and Procedure, cannot be said to have been made illegally if they had followed the procedures of



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regular appointments such as conduct of written examinations or interviews as in the present case. Paragraph 53 of the Uma Devi (supra) case is reproduced hereunder:

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa [(1967) 1 SCR 128: AIR 1967 SC 1071], R.N. Nanjundappa [(1972) 1 SCC 409: (1972) 2 SCR 799] and B.N. Nagarajan [(1979) 4 SCC 507: 1980 SCC (L&S) 4: (1979) 3 SCR 937] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any



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already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme."

8. In light of the reasons recorded above, this Court finds merit in the appellants' arguments and holds that their service conditions, as evolved over time, warrant a reclassification from temporary to regular status. The failure to recognize the substantive nature of their roles and their continuous service akin to permanent employees runs counter to the principles of equity, fairness, and the intent behind employment regulations."

The issue in the above case was regarding the regularization of Accounts Clerk to Divisional Railway Manager. They were also appointed temporarily for a specific scheme. Therefore, their request for regularization or absorption into permanent post was rejected. Thus, it is clear that non regularization of the petitioners and their continuous service akin to permanent employees runs counter to the principles of equity, fairness and the intent behind employment regulations.

15. In the case on hand, the petitioners submitted representations seeking regularization of their services in a regular time scale of pay from the date of their initial appointment. On the submissions made by the learned Special



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Counsel appearing for the respondents 1 and 2, the petitioners will be absorbed in arising/future vacancy.

16. In view of the above, the second respondent is directed to regularize the petitioners' services in the post of Staff Nurse and absorb them into regular time scale of pay with all consequential service benefits based on their seniority. It is made clear that their services has to be regularized from the date of their initial appointment for all service benefits. It is also made clear that they are not entitled for monetary benefits under the time scale of pay from the date of their appointment till the date of their regularization.

17. With the above directions, these writ petitions are disposed of. No costs.

05.11.2025
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Speaking/Non Speaking order
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**Note: Registry is directed to incorporate
all the cause title and issue order copy**



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WEB COPY To

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