



W.P.(MD)No.12910 of 2019

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD)No.12910 of 2019

S.Kumaran

... Petitioner

Vs.

1.Medical Officer,
Government Hospital,
Panaikulam,
Ramanathapuram Taluk,
Ramanathapuram District.

2.Joint Director of Health Services,
Kenikkarai,
Ramanathapuram.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the Labour Court, Madurai in I.D.No.46 of 2016 and quash the award dated 04.04.2019 passed therein and direct the respondents to reinstate the petitioner into their service with back wages, continuity of service and attendant benefits.

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For Petitioner : Mr.T.Ravichandran
For Respondents : Mr.F.Deepak
Special Government Pleader

ORDER

This writ petition has been filed aggrieved by an order dated 04.04.2019 passed in I.D.No.46 of 2016 by the learned Labour Court, Madurai. The said Industrial Dispute was raised by the petitioner herein aggrieved by the proceedings bearing Ref.No.3122/E2/2015, dated 24.08.2015 issued by the Respondent No.2 cancelling the contract of employment of the petitioner on the ground that the petitioner is not attending the duty regularly and his disobeying the orders of the Higher Authorities and causing hindrance to the public administration.

2. The service of the petitioner was engaged by the Respondent No.2 in terms of the order issued by the Government in G.O.No.325, Health and Family Welfare (F2) Department, dated 20.11.2012. In terms of the said Government Order, the services of the petitioner and other similarly placed persons, who were appointed as contract basis, would be renewed year to year subject to their



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rendering satisfactory service. In the instant case, the employment of the petitioner was renewed for the second year and during the course of the employment, a charge memo was issued to the petitioner on 06.08.2015 on the ground that the petitioner was absent on 01.08.2015 and 04.08.2015 unauthorisidely. In response to the said charge memo, the petitioner submitted an explanation on 12.08.2015 stating that it was due to the death of the close relative of the petitioner, he was absent after duly intimating to the higher authority. But the Respondent No.2 having called for the said explanation, without conducting any enquiry and without considering the stand taken by the petitioner explaining the reason for his absence on 01.08.2015 and 04.08.2015, issued proceedings dated 24.08.2015 cancelling the contract of employment of the petitioner.

3. The learned Labour Court, Madurai, having examined the matter in detail came to the conclusion that the petitioner was not dismissed from service by taking necessary disciplinary action but it is a cancellation of contract of employment, thus, concluded that the petitioner cannot maintain the industrial dispute under Section 2(A)(2) of the Industrial Dispute Act, 1947.



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WEB COPY 4. The learned counsel for the petitioner contended that there was no agreement entered into between the Respondent No.2 and the petitioner in order to cancel the same. It is also not the case of the respondents that there was an agreement entered into between the petitioner and the Respondent No.2, but it is seen from the defence statement filed before the Labour Court that the petitioner herein was engaged only in terms of the order issued by the Government in G.O.No.325, Health and Family Welfare (F2) Department, dated 20.11.2012 and admittedly, there is no contract entered into between the petitioner and the Respondent No.2.

5. In the light of the same, the conclusion arrived at by the Labour Court, Madurai is totally erroneous. Further, by virtue of the proceedings dated 24.08.2015 which is marked as Ex.W.11 before the Labour Court, the employment of the petitioner stood terminated. Therefore, the conclusion arrived at by the Labour Court holding that there is no termination of employment, is wholly unsustainable. Further, it is also brought to the notice of this Court that out of 30 persons who were engaged in terms of the Government



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Order, 16 of them have been continuing in service. If that being the factual position, the petitioner is also might have been continued in service but for termination. If the respondents are of the view that the petitioner cannot continued because of authorised absence or otherwise, it is open for them to take appropriate action in accordance with law.

6. In the instant case, though the petitioner submitted a detailed explanation on 12.08.2015, the second respondent while passing the order dated 24.08.2015 failed to consider the said explanation offered by the petitioner except stating that it is unsatisfactorily.

7. From the perusal of the explanation submitted by the petitioner, this Court is convinced that the petitioner has given sufficient reason for his absence, but the same was not at all taken into consideration by the Respondent No.2 while cancelling the employment of the petitioner.



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WEB COPY8. In the circumstances, this Court is of the considered view that cancellation of the employment of the petitioner by the proceedings in question in the guise of cancelling the contract of the employment is wholly unsustainable. In the circumstances, the impugned order cannot be sustained and the same is quashed and consequently, the respondents are directed to reinstate the petitioner into service without any back wages and continue the petitioner in terms of the G.O.No.325, Health and Family Welfare (F2) Department, dated 20.11.2012.

9. In the light of the above, the writ petition is allowed. There shall be no order as to costs.

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Neutral Citation: Yes / No
Index : Yes / No
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MUMMINENI SUDHEER KUMAR, J.

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