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WP No. 44470 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-03-2026

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THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

WP No. 44470 of 2016

Mrs.D.Shanthi
D/o.Dhandayutham,
Staff Nurse (Under the order of Termination),
46A, East Street, Puthur (Po), Ammapettai,
Thanjavur District

..Petitioner(s)

Vs

1. The State of Tamil Nadu
Rep by its Secretary to Government,
Public Health and Family Welfare Department,
Fort St. George, Chennai-9
2. The Director of Medical and
Rural Health Services (In Charge),
D.M.S.Compound, Teynampet, Chennai-18
3. The Director of Medical and
Rural Health Services,
D.M.S.Compound, Teynampet, Chennai-18
4. The Joint Director of Health Services,
Tiruvarur, Tiruvarur District

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the Third Respondent in Na.Ka.No.23552/Se.B1/2/2016 dated 05.05.2016 and order of the First Respondent passed in Appeal in Letter No.41229/K2/2016-1 dated 24.11.2016 and quash the same with the consequential direction, directing the respondents



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to reinstate the petitioner into service with all benefits.

For Petitioner(s): M/s.V.Ravikkumar
R.K.Sathish Kumar

For Respondent(s): Mr.E.Sundaram, Govt. Advocate

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the third respondent in Na.Ka.No.23552/Se.B1/2/2016 dated 05.05.2016 and order of the First Respondent passed in Appeal in Letter No.41229/K2/2016-1 dated 24.11.2016 and quash the same with the consequential direction, directing the respondents to reinstate the petitioner into service with all benefits.

2. The case of the petitioner is as follows:

(a) After completing Nursing and Mid Wife course in the year 1995, the petitioner was appointed as Staff Nurse by proceedings of the second respondent, dated 02.12.2004. The petitioner was appointed on contract basis in the Tamil Nadu Government Service in fixed remuneration of Rs.2,500/- p.m. and she was posted at Government Hospital, Needamangalam, Thiruvavur District, and she joined as Staff Nurse on 09.12.2004.

(b) Due to her ill-health, the petitioner applied for Casual Leave on 12.05.2005 and two staff of the Hospital, namely Arulmozhi (ANM) and Tmt.Tamilarasi



(Hospital worker) were arrested by the Police officials under Section 7 of the Prevention of Corruption Act, for the alleged acceptance of bribe of Rs.300/- from one Tmt.Sugantha, W/o Azhagu Thirunavukkarasu. The petitioner was made as one of the accused in the criminal case and she has also obtained anticipatory bail. The petitioner was terminated from service by proceedings dated 09.07.2005. Challenging the same, the petitioner filed W.P.No.29477 of 2005 before this Court, and the said Writ Petition was allowed on 26.04.2006, since the impugned order attaches stigma on the petitioner in getting future employment.

(c) The above said order dated 26.04.2006 was not complied with by the respondents and hence, the petitioner filed Contempt Petition in Cont.No.449 of 2007. In the meanwhile, the Department has filed Writ Appeal in W.A.No.1028 of 2007. The said Writ Appeal was allowed by a Division Bench of this Court on 22.04.2008 observing as follows:

“2. The writ appeal has been admitted and though notice was served on the petitioner, the petitioner has not chosen either in person or through counsel to represent the case. Therefore, we consider it appropriate that the petitioner is not interested in the matter. However, the order of termination is based on the ground of involvement in a criminal case and therefore, if the petitioner succeeds in the criminal case, she can make a representation for reinstatement.



Therefore, we see no reason to set aside the order of termination as per the conditions of the appointment.

The order of the learned single Judge is set aside.”

(d) Thereafter, on 09.03.2016, while dealing with the miscellaneous petition in the said Writ Appeal, the Division Bench observed as follows:

“6. On our query, it is conceded that the copy of the cause list has not been filed. Thus, how it is possible for this Court to verify the factum of non-printing of the name of the counsel for the petitioner?

7. Be that as it may, the subsequent fact being recorded hereinafter as well as the liberty granted vide order dated 22.04.2008 would serve the purpose.

8. We are informed that the criminal case was withdrawn by the respondents and the departmental proceedings also resulted in acquittal from the charges. The other two nurses have been, in fact, given posts.

9. If the aforesaid position is correct, then the petitioner is on a better wicket than those two nurses and thus, her case for being put back into service in pari materia as the other two nurses is certainly liable to be considered.

10. We, thus, direct the respondents to examine the case of the petitioner for reinstatement in pari materia with the other two nurses and a decision be communicated to the petitioner within a period of one month from today.

11. The application, accordingly, stands disposed of. No costs.”

(e) Subsequently, both the above said nurses were reinstated into service based



on the Court order and thereafter, they were exonerated of the charges and the said Tmt.Arulmozhi (Auxiliary Nurse Mid-wife) was compulsorily retired from service and Tmt.Tamilarasi (Hospital worker) was given the punishment of stoppage of increment for four years with cumulative effect, but the claim of the petitioner herein for reinstatement was rejected.

(f) By the impugned order dated 24.11.2016, in the present petitioner's Appeal Petition sent to the first respondent and the order of the third respondent, dated 05.05.2016, in and by which, the petitioner's claim for reinstatement was not considered, was confirmed. Hence, the petitioner has filed the present Writ Petition for the relief stated supra.

3. Learned counsel for the petitioner submitted that the benefit which was extended to the co-accused in the criminal cases, had to be extended to the petitioner herein also.

4. Per contra, learned Government Advocate appearing for the respondents submitted that the petitioner stands on a different footing, as she was appointed only on contract basis and therefore, she cannot claim parity as that of a regular employee and she is not entitled for such benefits, which were extended to the other two workers.



5. In the counter affidavit filed by the respondents, in paragraph 8, it is stated as follows:

“8. While on the end Tribunal for Disciplinary proceedings, Trichy submitted the inquiry report holding the charges against the above two regular staff who were arrested on the incident, ‘as proved’, and the 2nd respondent in proceedings Ref.No.46799/SC 1/1/2005-1, dated 20.09.2011 had imposed the major punishment of ‘compulsory retirement’ on Tmt.Arulmozhi ANM and with 20% cut of DCRG from her retirement benefits. In proceedings Ref.No.46799/SC1/1/2005-1 dated 20.09.2011 the other accused Tmt.M,.Tamilarasi was imposed the punishment of another accused Tmt.M.Tamilaras, Hospital worker stoppage of increment for 4 years with cumulative effect.

It is humbly submitted that the petitioner herein was also involved in the said offence and departmental action was recommended by the vigilance department. The petitioner being contract staff appointed under on consolidate pay and upon whom it could not possible to take departmental disciplinary action like of regular Government servants under Tamil Nadu Government Servants (Discipline and Appeal) Rules, she was terminated from her service in the proceedings Ref.No.66055/N1/2/2005, dated 09.07.2005, the order which is having the following findings which resort to the issue of such an order upon the individual.

As per the terms and conditions of the appointment, “The Government represented by the Director of Medical and Rural Health Services shall have the power to terminate the services of



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any of the Staff Nurses appointed on the grounds of unsatisfactory performance to the higher authorities.”

By demanding bribe Tmt.D.Shanthi exhibited lack of devotion to duty and absolute integrity. By the aforesaid act, she has entangled herself in a criminal case, in Nagapattinam Vigilance and Anti Corruption Department in Cr.No.14/2005 under Section 7 of Prevention of Corruption Act, 1988.

Therefore, the undersigned has decided to terminate Tmt.D.Shanthi, Contract Nurse from service forthwith, for the above misconduct, on her part and requested to issue termination order for Tmt.D.Shanthi, Contract Nurse immediately.”

6. Thus, it is clear that the petitioner was appointed only on contract basis and she is not a regular Government servant to avail any benefits on par with the others.

7. Hence, for the reasons stated above, the present Writ Petition is dismissed as devoid of merits. There shall be no order as to costs.

17-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

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Rep by its Secretary to Government,
Public Health and Family Welfare Department,
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N.SENTHILKUMAR, J.

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