

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2015

CORAM

THE HONOURABLE MR.JUSTICE D. HARIPARANTHAMAN

W.P.No.13867 of 2015

Dr. S.Kannan Meenakshisundaram

.. Petitioner

Vs.

1. The Secretary to Government,
Health and Family Welfare Department,
Government of Tamilnadu,
Secretariat, Fort St. George,
Chennai-9.
 2. The Director of Medical and Rural
Health Services,
Teynampet, Chennai-6.
 3. The Deputy Director of Health Services,
Villupuram.
- .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned orders in Letter No.23375/A2/2014-4, dated 30.01.2015 on the file of the 1st Respondent and the Letter in Ref. No.70361/E6/1/2013, dated 16.02.2015 as communicated by the 2nd Respondent in Ref.No.1208/A1/2015, dated 17.03.2015 and quash the same, consequentially direct the Respondents to give time bound promotion to the petitioner as Chief Civil Surgeon by sanctioning Pay Band-IV Rs.37400-67000 + Grade Pay of Rs.8700/- in the light of G.O.(Ms) No.245, Health and Family Welfare (A2) Department, dated 30.10.2013 with effect from date of the petitioner attainment of eligibility i.e., 01.06.2010 and to pay all arrears of the petitioner's monetary benefit pursuant to the above said promotion with all attended benefits as of now, within a reasonable time to be fixed by this Court.

For Petitioner : Mr.R.Neelakandan
For Respondents: Mr.S.Gunasekaran,
Government Advocate

ORDER

The petitioner joined the service as Assistant Surgeon in the Tamil Nadu Rural Health and Family Welfare Department on 01.06.1990. He retired from service on 31.03.2014.

2. The Government issued G.O.Ms.No.245, Health and Family Welfare (A2) Department, dated 30.10.2013 giving time bound promotion and granting higher scale of pay on completion of 8, 15, 17 and 20 years of service.

3. The petitioner completed 20 years of service in 2010. As per para 4 of the aforesaid Government Order, the eligibility criteria for getting time bound promotion is as follows:-

"The eligibility criteria being:

- i. Should have put in the cut off years of service (excluding the ineligible service).
- ii. No disciplinary proceedings pending or currency of punishment.
- iii. No currency of relinquishment period."

4. According to the petitioner, his claim for time bound promotion, as per the aforesaid Government Order, was rejected by the first respondent by the impugned order dated 30.01.2015.

5. The reason given in the impugned order is that the petitioner faced disciplinary proceedings under Rule 17(a) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and a charge memo was issued to him on 30.05.2013. Ultimately, the same resulted in the issuance of punishment order dated 16.12.2013 imposing the punishment of "Censure". The currency of punishment ended on 15.12.2014 overlapping the retirement of the petitioner. Hence, his claim was rejected.

6. I have perused the G.O.Ms.No.245, Health and Family Welfare (A2) Department, dated 30.10.2013. It is relevant to extract para 4 of the aforesaid Government Order.

"4. The Government have examined the case in the light of the minutes of the review meeting and in cancellation of the amendment issued in G.O.(Ms)No.357, Health and Family Welfare Department, dated 15.12.2010, issue the following clarificatory amendment orders for ensuring smooth implementations of the original Government Order second read above:

1) The Assistant Surgeon Medical Officers working in the Tamil Nadu Medical Service of all the Directorates shall be given time bound promotion on completion of 8, 15, 17 years of eligible service in the designations/scales of Senior Assistant Surgeon Pay Band-III Rs.15600 - 39100 + Grade Pay of Rs.5700/-, Civil Surgeon Pay Band-III Rs.15600- 39100 + Grade Pay of Rs.6600/- and Senior Civil Surgeon Pay Bank - III Rs.15600 - 39100 + Grade Pay of Rs.7600/- respectively and on completion of 20 years of eligible service as Chief Civil Surgeon in Pay Band-IV Rs.37400 - 67000 + Grade Pay of Rs.8700/-. The benefits will be from the date of completion of the above stipulated periods. The criteria for eligible service will be the same that was existing earlier. The eligibility criteria being:

i. Should have put in the cut off years of service (excluding the ineligible service).

ii. No disciplinary proceedings pending or currency of punishment.

iii. No currency of relinquishment period."

7. As per Paragraph 4 of G.O.Ms.No.245, dated 30.10.2013, Assistant Surgeon working in the Tamil Nadu Medical Service on completion of 8 years of service shall be given time bound promotion and designated as Senior Assistant Surgeon in Pay Band III Rs.15600 - 39100 + Grade Pay of Rs.5700/-. Likewise, on completion of 15 years of service, he shall be given time bound promotion and designated as Civil Surgeon in Pay Band III Rs.15600 - 39100 + Grade Pay of Rs.6600/-. Further, on completion of 17 years of service, he shall be given time bound promotion and designated as Senior Civil Surgeon in Pay Band III Rs.15600 - 39100 + Grade Pay of Rs.7600/-. There is no dispute relating to these three promotions.

8. The dispute is relating to the claim of the petitioner for time bound promotion on completion of 20 years of service and for designation as Chief Civil Surgeon in Pay Band IV of Rs.37400 - 67000 + Grade Pay of Rs.8700/-.

9. The learned Government Advocate appearing for the respondents would submit that since disciplinary proceedings was pending against the petitioner at the time of issuance of the G.O.Ms.No.245, which resulted in the imposition of punishment of 'Censure' by order dated 16.12.2013, the petitioner is not entitled to get time bound promotion as Chief Civil Surgeon.

10. I am not in agreement with the submission made by the learned Government Advocate. Paragraph 4 of the Government Order makes it very clear that on completion of 20 years of eligible service, the petitioner is entitled to be promoted and designated as Chief Civil Surgeon in Pay Band IV Rs.37400-67000 + Grade Pay of Rs.8700/-. The Government Order further categorically states that the benefits would be given from the date of completion of the stipulated period. Therefore, the crucial date is date of completion of 20 years. It is admitted that the petitioner completed 20 years of service in the year 2010 itself. In 2010, there was no disciplinary proceedings pending against the petitioner. A charge memo under Rule 17(a) of TNCS (D & A) Rules was issued only on 30.05.2013. Hence, the same could not be put against the petitioner to deny the time bound promotion that is due to him as per G.O.Ms.No.245 on completion of 20 years of service.

11. For all the foregoing reasons, the impugned order of the first respondent, dated 30.01.2015 is liable to be quashed and accordingly, it is quashed and a direction is issued to the first respondent to grant time bound promotion and designate the petitioner as Chief Civil Surgeon on completion of 20 years of eligible service and pay monetary benefits accordingly, as per

G.O.Ms.No.245, Health and Family Welfare (A2) Department, dated 30.10.2013. The said exercise shall be undertaken within a period of eight weeks from the date of receipt of a copy of this order.

The Writ Petition stands allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

jrl
To

1. The Secretary to Government,
Health and Family Welfare Department,
Government of Tamilnadu,
Secretariat,
Fort St. George,
Chennai-9.
2. The Director of Medical and Rural Health Services,
Teynampet, Chennai-6.
3. The Deputy Director of Health Services,
Villupuram.

+ 2 ccs to Mr.R. Balakrishnan, Advocate Sr.36579
+ 1 cc to Government Pleader Sr.25918
+ 1 cc to Government Pleader Sr.36670

W.P.No.13867 of 2015

CTK(CO)
Eu 31.07.15

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