

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04-08-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.23695 of 2015

N.Subramani

..

Petitioner

vs

1.State of Tamilnadu
rep. By its Secretary
Health and Family Welfare Department
Chennai 600 009

2.The Director of Public Health
and Preventive Medicine
D.M.S. Compound
Chennai 600 006

3.The Deputy Director of
Health Services
Tirupattur, Vellore District

..

Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to implement the order dated 13.7.2007, passed by this Court in W.P.No.3864 of 2007, and further directing the respondents to disburse all attendant benefits with effect from 1.2.1979 from the cadre of Health Inspector within a stipulated period of time.

For Petitioner : Mr.R.Ezhilarasan

For Respondents : Mr.S.Gunasekaran
Government Advocate

ORDER

By consent, the writ petition itself is taken up for final disposal.

2.Writ petitions in W.P.No.29794 of 2005 batch etc., were filed praying for issuance of a writ of mandamus directing the respondents therein to promote the petitioners therein in the cadre of Health Inspector with effect from the dates mentioned in the respective writ petitions, and all the writ petitions including the one filed by the petitioner herein in W.P.No.3864/2007, were taken up together for disposal and vide common order dated 13.7.2007, a Division Bench of this Court has disposed of all the writ petitions and it is relevant to extract the following portions of the said common order:-

"10.In the light of the above, the respondents are directed to consider the cases of the petitioners with regard to regularisation of their services with retrospective effect and thereafter, giving promotion as per the seniority list prepared by the Government by virtue of proceedings dated 05.3.1996 and the order of Tribunal dated 10.8.2001 and also the consequential G.O.(D) No.359 Health and Family Welfare (N2) Department dated 26.4.2004, within a period of 12 weeks from the date of receipt of a copy of this order.

11.It is brought to our notice that some of the writ petitioners have retired from service after attaining the age of superannuation. If that is so, they are entitled for regularization from the date they have acquired qualification and consequential monetary benefits and the respondents are directed to pay the same to them within the stipulated period.

12.The writ petitions are ordered with the above directions. No costs."

3.The State challenging the legality of the said order, filed Civil Appeal No.6660 of 2011 batch etc., with delay in filing the application for substitution and the application was ordered and vide order dated 25.2.2015, the Hon'ble Supreme Court of India has dismissed all the Civil Appeals and thereby, confirmed the common order dated 13.7.2007.

4.The learned Counsel appearing for the petitioner, would submit that in spite of the order of dismissal passed by the Hon'ble Supreme Court as early as on 25.2.2015, the official respondents are yet to comply with the common order dated 13.7.2007, made in W.P.No.29794/2005 batch etc., and prays for appropriate direction directing them to implement the said order.

5.Per contra, Mr.S.Gunasekar, learned Government Advocate, who accepted notice on behalf of the respondents, would contend that the remedy open to the petitioner if any, is to file a petition for contempt and in the alternative, he may be granted time to get instructions.

6.The Court has considered the rival submissions and also perused the materials placed before it.

7.It is an admitted fact that vide common order dated 13.7.2007, made in W.P.No.29794/2005 batch etc., a positive direction was given to the official respondents therein, as extracted in the aforesaid paragraph, and the further challenge made to the said common order in the form of Special Leave Petitions, were also dismissed by the Hon'ble Supreme Court of India. Therefore, in the light of the above facts and circumstances, the respondents herein are bound to obey the above said common order.

8.In the result, the writ petition is disposed of, and the respondents are directed to comply with the common order dated 13.7.2007, made in W.P.No.29794/2005 batch etc., in respect of the petitioner herein viz. petitioner in W.P.No.3864/2007, as expeditiously as possible and not later than eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

nsv

To:

- 1.The Secretary to Government
Health and Family Welfare Department
Chennai 600 009
- 2.The Director of Public Health
and Preventive Medicine
D.M.S. Compound
Chennai 600 006
- 3.The Deputy Director of
Health Services
Tirupattur, Vellore District

+1 cc to M/s. R.Ezhilarasan, Advocate, sr.40291
+1 cc to The Government Pleader, sr.40407.

vd(co)
kra (25/08)

W.P.No.23695 of 2015

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