

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10-08-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION Nos.24607 and 24608 of 2015

1.S.Chitradevi
2.C.Malarvizhi

.. Petitioners in
WP 24607/2015

1.C.Arun Kumar
2.K.Saravana Ganapathi Raj
3.V.Vimala

.. Petitioners in
WP 24608/2015

vs

1.The State of Tamil Nadu
Rep. By its Principal Secretary to
Government
Health and Family Welfare Department
Secretariat, Fort St. George
Chennai 600 009
2.The Director of Medical Education
Kilpauk, Chennai 600 010
3.The Director of Medical and Rural
Health Services
DMS Compound, Anna Salai
Teynampet, Chennai 600 006
4.The Director of Public Health and
Preventive Medicine
DMS Compound, Anna Salai
Teynampet, Chennai 600 006

.. Respondents in
both writ petitions

Writ petitions filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents to regularise the services of the petitioners in the post of Lab Assistant from the date of initial appointment with regular time scale of pay and to account the services rendered by the petitioners from the date of initial appointment as pensionable services under the Tamil Nadu Pension Rules for applicability of existing Pension Scheme and GPF Scheme with all consequential and other attendant benefits including arrears of salary, within a time frame.

For Petitioners : Mr.G.Sankaran

For Respondents : Mr.S.Gunasekaran
Government Advocate

COMMON ORDER

By consent, both the writ petitions are taken up for final disposal.

2.The petitioners in W.P.No.24607 of 2015, would state that they were issued with Certificates in Medical Laboratory Technology and were appointed as Laboratory Assistants in the year 2003 and working in various Government Hospitals in terms of G.O.(D) No.1577, Health and Family Welfare (C.2) Department, dated 7.11.2001, issued by the first respondent, and the services of the persons similarly placed, were also regularised. The petitioners have also drawn the attention of this Court to the proceedings of the Director of Public Health and Preventive Medicine, Chennai, dated 18.11.2006, 28.11.2006 and 11.12.2006, and since the petitioners are similarly placed, they are entitled to service regularisation with conferment of all attendant benefits.

3.The petitioners in W.P.No.24608/2015, would state that all of them are issued with Certificates in Medical Laboratory Technology and were appointed as Laboratory Assistants in the year 2003 and they also made a similar claim as that of the petitioners in W.P.No.24607/2015.

4.The learned Counsel appearing for the petitioners, has drawn the attention of this Court to the G.O.(D) No.1577, Health and Family Welfare (C.2) Department, dated 7.11.2001, and more particularly, paragraph No.6(i) and (iii) as well as the proceedings of the Director of Public Health and Preventive Medicine, Chennai 6, dated 15.12.2006, and would submit that in similar facts and circumstances, the services of the Laboratory Assistants, who are appointed on contract basis, were brought under regular time scale of pay through regularisation, and hence, similar benefit may be extended to the petitioners also.

5.The learned Counsel appearing for the petitioners, also relied upon the order dated 27.7.2015, made in W.P.No.22625/2015, and would contend that in similar facts and circumstances, this Court has passed orders by directing the first respondent therein to pass appropriate orders on the representation of the petitioners therein, in terms of G.O.(3D) No.4, School Education Department, dated 21.1.2015, and similar order may be passed.

6.Per contra, Mr.S.Gunasekaran, learned Government Advocate, who accepted notice on behalf of the respondents, would submit that G.O.(3D) No.4 dated 21.1.2015, is not at all applicable to the facts of this case for the reason that the said G.O. is meant for School Teachers and admittedly, the petitioners herein are appointed on contract basis and therefore, they cannot claim regularisation as a matter of right, and prays for dismissal of these writ petitions.

7.This Court has carefully considered the rival submissions and also perused the materials placed before it.

8.It is relevant to extract paragraph No.6(i) and (iii) of

G.O.(3D) No.1577, Health and Family Welfare (C.2) Department, dated 7.11.2001, as under:-

"6. Based on the above said decision of the Cabinet the question of filling up of the posts of 1508 vacancies in the various Categories of Para medical/technical personnel posts has been examined carefully and accordingly, the Government direct that the various categories of para medical and technical posts as mentioned in the annexure to this G.O. shall be filled up on contract basis through the Employment Exchange by lifting the ban in force, on the following terms and conditions:-

- i) the various categories of posts mentioned in the annexure be employed on contract basis at the consolidated pay of Rs.2500/- p.m.;
- ii)
- iii) persons appointed on consolidated pay shall be brought into regular time scale in the respective posts on completion of two years...."

9. The proceedings of the Director of Public Health and Preventive Medicine, Chennai 6, in R.No.132789/E2/06/S1 dated 15.12.2006, would state that pending issue of amendment to Special Rules for the post of Laboratory Assistant under Tamil Nadu Public Health Subordinate Services of the Laboratory Assistants (appointed on contract basis and brought into regular time scale of pay) listed in the Annexure, are regularised in the post of Laboratory Assistant with effect from the dates noted against their names in Column 7 with reference to Rule 23(a)(i) of the General Rules for the Tamil Nadu State and Subordinate Service.

10. Though the petitioner prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioners in these writ petitions, directs the first respondent to consider the petitioners' joint representation dated 8.4.2015, on merits and in accordance with law and pass orders within a period of twelve weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners. The writ petitions are disposed of accordingly. No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

nsv

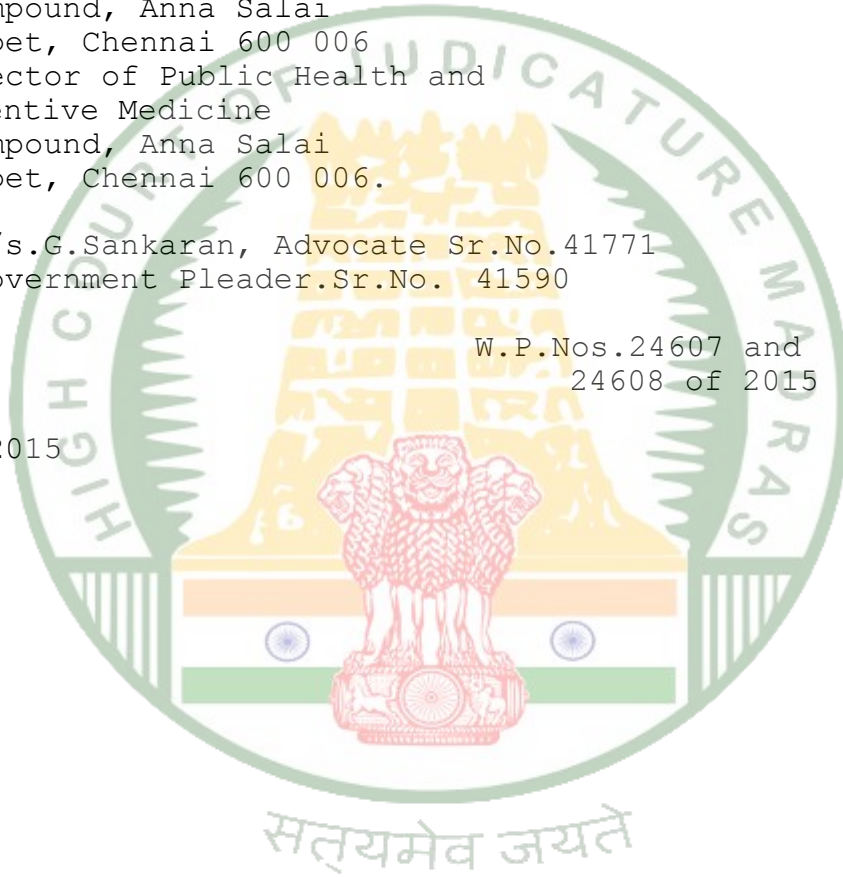
To:

- 1.The Principal Secretary to
Government
Health and Family Welfare Department
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- 2.The Director of Medical Education
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2 cc to M/s.G.Sankaran, Advocate Sr.No.41771
1 cc to Government Pleader.Sr.No. 41590

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24608 of 2015

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pmk.18.8.2015



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