

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-10-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.29137 of 2015

and

M.P.No.1 of 2015

Sureshkumar

.. Petitioner

vs

1.State of Tamil Nadu

Rep. By its Secretary
Department of Public Health
and Family Welfare
Fort St. George,
Chennai 600 009

2.The Director of Public Health
& Preventive Medicine

D.M.S. Compound
Teynampet, Chennai 600 018

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records on the file of the second respondent relating to the order bearing No.51077/TRG/SI-2011, dated 20.9.2011, quashing the same and consequently, directing the respondents to appoint the petitioner to the post of Health Inspector Grade-II with effect from 13.1.2011, the date on which 55 others were appointed with continuity of service, arrears of salary, appropriate seniority and all other attendant benefits.

For Petitioner : Mrs.Anna Mathew
for Mr.R.Thirumoorthy

For Respondents : Mr.S.Gunasekaran
Government Advocate

ORDER

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

2.The petitioner would state that the following is the qualification prescribed for the post of Health Inspector Grade-II:-

- (i) X Standard Pass;
- (ii) Certificate issued by the Director of Public Health and Preventive Medicine (or) Health Worker (Male) Training Certificate issued by an Institute recognized by the Government of Tamil Nadu, and

(iii) Health Inspector Training and Certificate issued by the Director of Public Health and Preventive Medicine.

3.The petitioner would further state that he has completed the Sanitary Inspector Training Course in All India Training Institute of Local Self Government located at Mumbai, and the Certificate issued by the said Institution, is also recognised by the Central Government and many of the State Governments and originally, the certificates obtained from the Institutions outside Tamil Nadu, have not been considered by the Government of Tamil Nadu and hence, repeated representations were sent to the Government of Tamil Nadu, and the Government in order to solve the said issue, constituted a One Man Committee headed by Dr.Selva Vinayagam, to submit a report on the validity of the certificates and the One Man Committee has examined the infrastructure and other facilities available in the Institutions located at Belgaum, Jaipur, Mumbai, Bangalore, Ongol and Trivandrum, and a report was also submitted by the Committee, based on which, the second respondent had sent a letter dated 26.3.2008, recommending that a onetime relaxation of Rule 5(b)(iii) of the Public Health Subordinate Service ad-hoc Rules may be granted to 55 candidates, who belong to Tamil Nadu and studied outside the State, and also recommended that they may be appointed as Health Inspector Grade-II in the existing vacancies.

4.It is further averred by the petitioner that the Government favourably considered the said issue and therefore, the first respondent has issued G.O.Ms.No.305 dated 22.9.2009, and earlier, G.O.Ms.No.278 of the same Department dated 31.10.2006, was issued, wherein, it has been stated that 1376 vacancies were available for the post of Health Inspector Grade-II and most of them could not be filled up for want of eligible candidates and therefore, the Directorate of Public Health and Preventive Medicine sought for permission to appoint 55 persons, who obtained their qualifications from private institutions, and accordingly, it was accepted and the above said G.O.Ms.No.305 has also provided the manner in which they should be accommodated, as under:-

- (i) By calling candidates from the Employment Exchange along with the 55 persons who have obtained their diploma from the other Private Institutions outside the State and whose names are annexed to the G.O. in the ratio 1:5;
- (ii) The appointments should be made by relaxing the Rules 5(b)(iii) of the Public Health Subordinate Service Adhoc Rules;
- (iii) The candidates were to be appointed on mere verification of the certificates and not on the basis of any selection and
- (iv) Communal rotation has to be followed.

5.The petitioner would further state that he has also received a call letter on 16.12.2010, for certificate

verification and after verification, he was also interviewed and thereafter, did not receive any communication from the second respondent and on enquiry, came to know that the persons, whose names find place in the above said Government Order, were appointed as Health Inspector Grade-II except 9 persons including the petitioner, and he in this regard, has also submitted a representation and since no orders have been passed, filed W.P.No.7376/2011 and this Court has passed an order directing the second respondent therein to consider the representation and pass orders and a further direction was also issued to the petitioner to send one more representation by enclosing a copy of the order passed in the said writ petition, and it was also done; however, no orders have been passed and therefore, Contempt Petition No.1422 of 2011 was filed and when the same is pending, the impugned order came to be passed stating that since nine persons including the petitioner, did not obtain necessary marks, they were not considered for selection and challenging the legality of the order, he came forward to file this writ petition.

6.Mrs.Anna Mathew, learned Counsel appearing for the petitioner, has drawn the attention of this Court to G.O.Ms.No.305, Public Health and Family Welfare (N1) Department, dated 22.9.2009, and would submit that the name of the petitioner finds place in Serial No.48 in the said Government Order and the entitlement of the persons similarly placed, has been considered by this Court in W.P.Nos.16488 of 2012, 34494 to 34498 of 2013 and 4552 and 4553 of 2015 and vide common order dated 26.3.2015, all the writ petitions were allowed directing the respondents therein to appoint the petitioners therein as Health Inspector Grade-II in the light of the Government Order in G.O.Ms.No.305 dated 22.9.2009, and more particularly, paragraph No.8 of the order, and further directing the respondents to complete the said exercise within a period of eight weeks from the date of receipt of the copy of the order.

7.It is the further submission of the learned Counsel appearing for the petitioner, that since the name of the petitioner finds place in the above said Government Order, and he is also similarly placed as that of the petitioners in the above said writ petitions, he is entitled to similar relief and prays for appropriate orders.

8.The Court heard the submissions of Mr.S.Gunasekaran, learned Government Advocate, who accepted notice on behalf of the respondents, also. He would submit that in the light of G.O.Ms.No.305 of the first respondent dated 22.9.2009, as well as the common order dated 26.3.2015, made in W.P.Nos.16488 of 2012, 34494 to 34498 of 2013 and 4552 and 4553 of 2015, the prayer sought for by the petitioner, may be considered.

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

10.It is not in serious dispute that the name of the

petitioner finds place in Serial No.48 in G.O.Ms.No.305 of the first respondent dated 22.9.2009, and in similar facts and circumstances, this Court has considered the claim made by the petitioners in W.P.No.16488/2012 batch etc., and passed a positive order by directing the very same respondents herein to appoint them as Health Inspector Grade-II within a stipulated time. Therefore, this Court is of the considered view that the above said common order in W.P.No.16488/2012 batch etc., is fully applicable to the facts of this case and the petitioner is also entitled to the similar relief.

11.In the result, the writ petition is allowed and the impugned order dated 20.9.2011, passed by the second respondent, is set aside and the respondents 1 and 2 are directed to appoint the petitioner as Health Inspector Grade-II in the light of the G.O.Ms.No.305 of the first respondent dated 22.9.2009, by taking into consideration paragraph No.8 of the said order and are further directed to complete the said exercise within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

12.Insofar as the seniority and other consequential benefits, which may arise out of this order, the petitioner is at liberty to submit a representation to the respondents 1 and 2 within a period of two weeks from the date of receipt of a copy of this order and the respondents on receipt of the same, are directed to consider it on merits and in accordance with law, after putting on notice, the persons concerned, and pass orders thereon within a period of eight weeks thereafter and communicate the decision taken, to the petitioner as well as to the persons concerned. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To:

- 1.The Secretary to Government
Department of Public Health
and Family Welfare
Fort St. George,
Chennai 600 009
 - 2.The Director of Public Health
& Preventive Medicine
D.M.S. Compound
Teynampet, Chennai 600 018
- +1 cc to the GovernmentPleader(sr.57721)
+1 cc to Mr.R.Thirumoorthy,Advocate(sr.57694)