

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.31304 of 2015

S.Stephen Sundar

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep by its Principal Secretary to Government
Health and Family Welfare Department
Secretariat Fort St. George Chennai 9
2. The Director of Medical Education
Kilpauk Chennai 10
3. The Director of Medical
and Rural Health Services
DMS Compound Anna Salai
Teynampet Chennai 6
4. The Director of Public Health
and Preventive Medicine
DMS Compound Anna Salai
Teynampet Chennai 6

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to regularize the services of the petitioner 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 petitioner from the date of initial appointment as pensionable services under 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 to be fixed by this Honourable Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.S.Gunasekaran
Government Advocate

O R D E R

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

2.The claim of the petitioner is that he is qualified with Certificate in Medical Laboratory Technology (CMLT) and was appointed as Lab Assistant in the year 2003 and was working in Government Hospital at Kumbakonam in the regular sanctioned post in the department of Public Health and Preventive Medicine on consolidated pay for a period of two years in terms of G.O(D). No.1577, Health and Family Welfare Department dated 07.11.2001 and was brought into regular time scale of pay on completion of two years of service on consolidated pay in the year 2005. Thereafter, he was promoted as Lab Technician Grade -II in terms of G.O(D).No.1188, dated 08.11.2006 and posted in the department of Director of Medical and Rural Health Services and working in that capacity as on today.

3.The further claim of the petitioner is that he is working as Lab Technician Grade -II and the said post was not filled up in Government Medical institution/ Hospitals for a long time and the Government has also issued G.O(D).No.1577, Health and Family Welfare Department dated 07.11.2001 to fill up the vacancies of Para Medical Staff/ Technical Staff in Government Hospitals and Medical Institutions on consolidated pay of Rs.2,500/- per month and the persons appointed in that capacity shall be brought into time scale of pay. The petitioner would further state that the Government subsequently issued G.O.Ms.No.430, Finance (Pension) Department, dated 06.08.2003 introducing new contributory pension scheme and in respect of persons appointed prior to 01.04.2003 the provisions of Tamil Nadu Pension Rules shall be applicable and since his appointment is prior to 01.04.2003, the said rule would govern his claim.

4.The grievance expressed by the petitioner is that though he has put in long years of service, his services are yet to be regularised and in this regard, submitted a representation dated 08.04.2015 and since no orders have been passed, came forward to file this writ petition.

5.The learned counsel appearing for the petitioner would submit that in similar facts and circumstances, this Court has directed the respondents therein to consider the claim of the petitioners therein and to pass orders vide orders dated 25.08.2015 made in W.P.Nos.26362 to 26376 of 2015 and prays for appropriate orders.

6.Heard the submissions of Mr.G.Sankaran, learned counsel appearing for the petitioner and Mr.S.Gunasekaran, learned Government Advocate who accepts notice on behalf of the respondents.

7.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 same, directs the first respondent to consider and dispose of the petitioner's representation dated 08.04.2015 on merits and in accordance with law and pass orders within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

8.The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS V)

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To

Sub Assistant Registrar

1. The Principal Secretary to Government
Health and Family Welfare Department
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+1cc to M/s.G.Sankaran, Advocate, S.R.No.54434

W.P.No.31304 of 2015

RSI (CO) CA (19/10/2015)