



W.P.No.33785



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 08.01.2025**

**CORAM**

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**W.P.No.33785 of 2015**

S.Sivaguru

... Petitioner

Vs.

1. State of Tamil Nadu,  
Represented by the Secretary to Government,  
Health and Family Welfare Department,  
Secretariat, Fort St.George,  
Chennai – 600 009.

2. The Director of Public Health and Preventive Medicine,  
Teynampet, Chennai – 600 006.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in its letter (D) No.1101/L1/2010 dated 27.10.2014 and Letter R.No.116911/MP1/S4/2010 dated 02.12.2024 of the second respondent, quash the same and consequently direct the respondents to consider and grant the petitioner retrospective promotion as Health Inspector Grade I with effect from 11.09.1995 with all consequential benefits flowing therefrom.

For Petitioner : Mr.Menon Karthik

For Respondent : Mr.K.Tippu Sultan,



Government Advocate  
**ORDER**

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The petitioner herein, who was initially appointed as 'Multi Purpose Health Assistant', which was subsequently re-designated as 'Health Inspector, Grade II' on 17.07.1989, found himself eligible for promotion to the post of 'Health Inspector, Grade I' on completion of five years of service in the post of 'Multi Purpose Health Assistant/ Health Inspector, Grade II', made a claim for consideration of his case for promotion to the post of 'Health Inspector, Grade I' by filing O.A.No.6264 of 1995 before the erstwhile Tamil Nadu Administrative Tribunal. The said Original Application was disposed of by the Tribunal by an order dated 30.10.1995, directing for consideration of the claim of the petitioner. The claim of the petitioner was accordingly considered by the respondents and informed the petitioner that there are several seniors awaiting for such promotion above him and his case will be considered in his own turn. It was thereafter several seniors who do not possess the requisite qualification for the post of 'Multi Purpose Health Assistant/ Health Inspector, Grade II' were stated to have been considered for promotion to the post of 'Health Inspector, Grade I' by relaxing the qualification, though fully qualified candidates were available in the feeder category like the petitioner. Thus, the association of the 'Health Inspector, Grade II' made a claim for granting retrospective promotion



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from the year 1995 i.e., the date on which the seniors in the cadre of 'Health Inspector Grade II' were promoted to the post of 'Health Inspector, Grade I' by relaxing the Rules. Considering such repeated requests made by the Association, Respondent No.2 appears to have submitted several proposals to the Respondent No.1 for granting the benefit of notional promotion to the persons like the petitioner in this present case. The said claim of the petitioner was rejected by the Respondent No.1 by passing the impugned order on the ground that any such promotion granted would be against the orders passed by this court as well as the Hon'ble Apex Court. It is aggrieved by the said proceedings dated 02.12.2024, the petitioner approached this court by filing the present writ petition.

2. It is not the case of the petitioner that any of his juniors were promoted to the post of 'Health Inspector, Grade I', ignoring the claim of the petitioner. But the only grievance of the petitioner is that though the petitioner and several others are fully qualified and eligible for promotion to the post of 'Health Inspector, Grade I', the Respondent No.1, instead of considering the candidates, who are eligible for such promotion have relaxed the relevant qualifications and consider various persons, who are seniors to the petitioner and promoted to the



post of 'Health Inspector, Grade I'. Thus, it is contended that, had the respondents not relaxed the Rules pertaining to the qualification, the case of the petitioners would have fallen for consideration for promotion to the post of 'Health Inspector, Grade I' with effect from 09.01.1995 and therefore, they are entitled for grant of notional promotion with effect from 09.01.1995.

3. As already noted above, none of the juniors to the petitioner were promoted to the post of 'Health Inspector, Grade I' at any point of time. However, the seniors in the cadre of 'Health Inspector, Grade II' were considered for promotion, though they do not possess the requisite qualification to hold the post of 'Health Inspector, Grade I' by exercising the power under relevant Rule relaxing the requirement of possessing such qualification, considering the long length of service of more than 20 years and in respect of those persons, who have completed 50 years of age. The said orders issued in favour of the seniors to the petitioner relaxing the relevant Rules, are not under challenge nor the orders of promotion issued in favour of those persons, are not under challenge nor those persons are made parties to the present writ petition. If at all the petitioner is aggrieved by any such promotion given to any other person, either by relaxing the Rules or in case, if any unqualified candidates



were considered for promotion, it would have been appropriate for the petitioner to challenge such promotion at the relevant point of time. Admittedly, those promotions were effected during the year 1995 by issuing appropriate Government Orders. In the absence of any challenge to those Government Orders and promotions, the question of either examining the validity of such promotion orders or directing extension of such benefit of promotion to the petitioners from the date on which the seniors were promoted by relaxing the Rules does not arise.

4. Admittedly, the petitioner herein was promoted to the post of 'Health Inspector, Grade I' during the year 2005 and in his own turn and seniority and he also retired from service on attaining the age of superannuation on 31.03.2021. In view of the same, in the absence of any infringement of any right of the petitioner and also taking into consideration the fact that there was no challenge to the orders of promotion issued in favour of others who are stated to be not possessing the requisite qualification, no relief can be granted in the present writ petition.

5. Further, the persons who are appointed as 'Leprosy Inspector' under a



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scheme were absorbed and regularized in the post of 'Health Inspector, Grade I' during the year 1997 pursuant to an order passed by the Hon'ble Apex Court and they have been continuing as such with effect from the year 1997 in the post of 'Health Inspector, Grade I'. In case if the petitioner is granted the benefit as sought for by granting notional promotion with effect from 09.01.1995, the same would adversely affect those persons whose services were regularized and absorbed in the post of 'Health Inspector, Grade I' during the year 1997. Exactly the same is the reason furnished in the impugned order passed by the Respondent No.1.

6. In the light of the above, this court does not find any error or illegality in the impugned order passed by the Respondent No.1 and also does not find any substance in the claim made by the petitioner for grant of notional promotion.

7. In the light of the above, this court does not find any merit in the writ petition and the same is accordingly dismissed. No costs. Connected miscellaneous petitions, if any, shall stand closed.



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**08.01.2025**

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary to Government of Tamil Nadu,  
Health and Family Welfare Department,  
Secretariat, Fort St.George, Chennai – 600 009.
2. The Director of Public Health and Preventive Medicine,  
Teynampet, Chennai – 600 006.



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**MUMMINENI SUDHEER KUMAR, J.**

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