

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.4237 of 2015

Dr.S.Nagharathinam, M.B.B.S., D.C.H. ... Petitioner
Senior Assistant Surgeon (Rtd)
No.25 Ishwarya Nagar
Udumalpet, Tiruppur District

Vs.

1.The Secretary,
Health and Family Welfare Department,
Govt. of Tamil Nadu,
Fort St. George,
Chennai 600 009.

2.The Director of Medical & Rural Health Services,
Chennai 600 006. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus to direct the respondents to grant notional promotion retrospectively and grant all consequential benefits, pensionary benefits and other benefits eligible thereto.

For Petitioner : Mr.R.Devaraj

For Respondents : Mr.S.Gunasekaran
Government Advocate

ORDER

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

2. The case of the petitioner is that he joined the Tamil Nadu Medical Services on 11.04.1979. While he was serving as a Medical Officer in Udumalpet Municipality during 1987, he was issued a charge memo for alleged misappropriation of Rs.1,20,000/- and after enquiry, punishment of stoppage of increment for one year without cumulative effect was imposed.

3. The petitioner would further state that after the period of punishment, the first respondent issued G.O.Ms.No.115, dated 01.04.2008 dropping action on all the Medical Officers including the petitioner and thereafter, he made a representation to the respondents to empanel his name in the promotion list. One Dr.G.Mallika, who has faced similar charges like that of the petitioner, was later, promoted as Senior Civil Surgeon, but the case of the petitioner was not considered. Meanwhile, the petitioner superannuated on 31.05.2009. Thereafter, the petitioner sent representations dated 02.05.2014 and 30.12.2014 to the second respondent seeking notional promotion retrospectively and grant all consequential benefits. Since it was not considered, the present writ petition has been filed.

4. Heard the submissions of Mr.R.Devaraj, learned counsel appearing for the petitioner and Mr.S.Gunasekaran, learned Government Advocate appearing for the respondents.

5. Though the petitioner, prayed for a larger relief, this Court, in the light of the facts and circumstances, without going into the merits of the case, directs the petitioner to send a fresh representation to the second respondent within a period of two weeks from the date of receipt of a copy of this order and the second respondent, on receipt of the same, is directed to consider the petitioner's representation and pass orders on merits and in accordance with law, within a period of eight weeks thereafter and communicate the decision taken by them to the petitioner.

6. This writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

cla

To

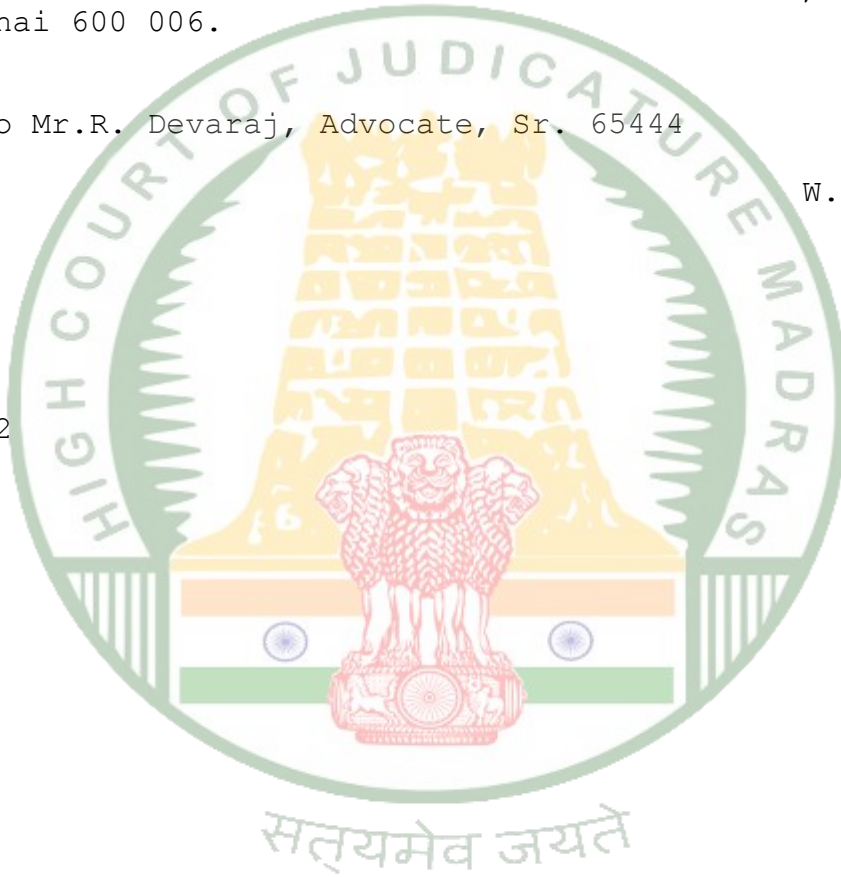
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2.The Director of Medical & Rural Health Services,
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3 ccs to Mr.R. Devaraj, Advocate, Sr. 65444

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