

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :: 23.3.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.P.Nos.7820 to 7822 of 2015

C.Mahizhnan ...Petitioner in W.P.No.7820 of 2015

K.Sumathy ...Petitioner in W.P.No.7821 of 2015

M.Ganesan ...Petitioner in W.P.No.7822 of 2015

versus

1.The Director of Public Health,
and Preventive Medicine,
Chennai 6.

2.The Deputy Director of Health Services,
Thiruvavarur ...Respondents in all the WPs

Writ Petitions filed under Art.226 of the Constitution of India praying for a Writ of Certiorari calling for the records relating to the order passed by the first respondent in Order No.P.No.56628/DA/01/S1-2 1 and 16 respectively dated 13.2.2015 and quash the same.

For petitioner Mr.M.Gnanasekar

For respondents Mr.M.S.Ramesh, AGP

COMMON ORDER

Introductory :-

We have come across cases of those who secured public employment and admission in educational institutions by producing false Schedule Caste / Schedule Tribe community certificates. The Director of Public

Health and Preventive Medicine has now exposed a job racket involving medical officers in charge of leprosy hospitals, Deputy Director of Health Services and 46 people who secured employment on the basis of false leprosy cured certificates. The petitioners are three among the hospital workers, who secured appointment in Government service by securing false medical certificates to the effect that they are cured leprosy patients, entitled to the benefits of the Government Order in G.O.Ms.No.1499 Health Department, dated 14 August 1989, providing for appointment to the cured leprosy patients as hospital workers, without reference to employment exchange. The enquiry conducted by the Director of Public Health revealed that 46 individuals secured appointment on the basis of cured leprosy patients certificates and out of that 39 were not found any kind of signs of leprosy at any point of time.

Background and analysis :-

2. The Government of Tamil Nadu have issued an order in G.O.Ms.No.1499 Health Department, dated 14 August 1989, providing for appointment to cured leprosy patients without any selection procedure. The following are the eligible conditions of such appointments.

1. Cured leprosy patients must have mild deformity either in hand or in the foot but at the same time this should not interfere with the job functions of the particular post.
2. Deformity certificate should be obtained from the Civil Surgeon Grade Medical Officer of Orthopedic Department of any Government Headquarters Hospital or Government Medical College Hospital to the effect that the deformity is caused by Hansens diseases.
3. Deformity certificate may be issued by District Leprosy Officer also.

3. The following Medical Officers (Leprosy) issued 46 false certificates to help candidates to secure appointments under cured leprosy patients quota.

1. Dr.D.Rajachandrasekaran formerly District Leprosy Officer, Trichy, has issued cured leprosy patients certificate to 32 individuals on the basis of the certificate issued by the Medical Officer Government leprosy Control Unit Thillai nagar, Trichy, Srirangam, Musiri and Kulithalai and after perusal of the records of the above Leprosy control units.

2. Similarly Dr.V.R.Isaac orthopaedic Civil Surgeon Madurai has issued certificates to 10 individuals on the basis of the treatment given by Dr.S.Karthikeyan in Thirumarugal and Ennakudy.
3. Dr.N.Kalyanasundaram Deputy Director of Medical Services (Leprosy) Sivaganga issued certificate to 3 individuals on the basis of the certificates issued by the Medical Officer Government Leprosy Control Unit Nanguneri, Sankarankoil and Ambasamudram in Tirunelveli District.
4. Dr.R.Vedachalam, District Leprosy Officer issued certificate to 1 individual on the basis of the certificate issued by the Medical Officer Government Leprosy Control Unit, Thiruvavarur.

4. The petitioner by name C.Mahizhnan, resident of Nagapattinam, was appointed as Hospital worker by order dated 4 December 1995.

5. The petitioner by name M.Ganesan, resident of Thiruvavarur District, was appointed as Hospital worker by order dated 31 December 1994.

6. The petitioner by name K.Sumathy, resident of Thiruvavarur District, was appointed as Hospital worker by order dated 18 October 1995.

7. The Writ Petitioners were appointed by Dr.R.Sadhakishnan, Dr.T.J.Balachandran and Dr.M.Senthamizhan, respectively, on the basis of false cured leprosy patient certificates.

8. The Government having suspected the genuineness of the cured leprosy patients certificates, initiated enquiry in 1998, by constituting a medical team by order in G.O.Rt.No.1041 Health and Family Welfare dated 17 July 1998.

9. The leprosy control units were integrated with the primary Health Centres on 31.7.1995. The Deputy Director of Medical Services (Leprosy), Trichy, in his Lrd.No.55/98/OS dated 25.8.1998 has stated that the records relating to the treatment given to the cured leprosy patients appointed as Hospital workers pertaining to the years 1986, 1987, and 1989 were not available. The Medical Officer Primary Health Centre, Vairavikulam and Panakudy in tirunelvlei District reported in their letter.R.No.434/PH/98 dated 1.9.98 and Rc.No.167/PH/ dated 21.9.98 respectively that Thiru.R.Ramesh and T.Karthikeyan did not take treatment in the above Primary Health Centres respectively. The Deputy Director of medical Services (Leprosy) Nagapattinam sent the

treatment particulars of B.Vanjjinathan, T.Gajendran only. Hence the genuineness of the disease of the cured leprosy patients appointed as Hospital Workers and the involvement of the Doctors who treated them was doubtful in the absence of treatment records.

10. Therefore Government in its order in G.O.Rt.No.1041 Health and Family Welfare Department dated 17 July 98 have ordered for the constitution of a medical team consisting the experts to find out the genuineness of the diseases and treatment undergone by the hospital workers. The medical team have examined the hospital workers physically at the office of the Deputy Director of medical Services (Leprosy) Thanjavur and at office of the Additional director of Medical Services (Leprosy) Chennai on 7.6.99, 8.7.99, 10.8.99 and 15.9.99 including Thiru.C.Mahilan, Tmt.K.Sumathy and Thiru.M.Ganesan and submitted reports dated 8 June 1999, 8 July 1999, 10 August 1999 and 15 September 1999. The Medical Team have stated in their reports that only 8 hospital workers, who were appointed by Dr.R.Radhakrishnan, Dr.T.J.Balachandran and Dr.M.Senthamizhan are having the signs of old cases of hansens disease and 39 other hospital workers examined by them do not have any signs of leprosy at any point of time. Therefore as per the report submitted by the Medical Team Thiru.C.Mahilan, Tmt.K.Sumathy and Thiru.M.Ganesan do not have any signs of leprosy at any point of time.

11. The Medical Team have further categorically stated that the deformities mentioned in the cured leprosy patients certificate will not disappear even after proper treatment is taken, whereas Thiru.c.Mahilan, Tmt.K.Sumathy and Thiru.M.Ganesan, do not have any sings of leprosy at the time of medical examination.

12. The Director of Public Health and Preventive Medicine, has issued charge memo to the petitioners on 3 February 2002 and after conducting enquiry dismissed them from service.

13. The petitioners have taken up a contention that mild deformity will vanish after some time and as such, merely on account of their good physical condition, it cannot be said that they were not leprosy patients earlier.

14. Heard Mr.M.Gnanasekar, learned counsel for the petitioner and Mr.M.S.Ramesh, learned Additional Government Pleader, on behalf of the respondents.

15. When it was pointed to the counsel for the petitioners that the jurisdiction of the writ court is very limited in a case of this nature, the learned counsel submitted that the petitioners would file

appeals before the Government, as indicated in the dismissal order passed by the Director of Public Health and Preventive Medicine.

16. The learned counsel submitted that the petitioners are still working and the said position should be continued till the disposal of appeals.

17. The first respondent in the orders impugned in these Writ Petitions, very clearly stated that it is open to the petitioners to file appeals to the Government within 90 days. The order was passed on 13 February 2015. The petitioners are having time till 12 April 2015 to file appeals.

18. The submission made by the learned counsel for the petitioners to the effect that the petitioners are still working is disputed by the learned Additional Government Pleader.

19. It is not open to this Court to analyze the materials collected by the first respondent including medical reports and to arrive at a different conclusion on the basis of those materials. The experts have examined the petitioners and opined that they have not shown symptoms of leprosy at any point of time. The proper course now is to permit the petitioners to file appeals.

20. The petitioners are given time till 13 April 2015 to file appeals to the Appellate Authority. Status quo as on today shall be maintained till 13 April 2015.

21. The Appellate Authority is directed to consider and dispose of the appeals uninfluenced by the observations contained in this order.

22. The Writ Petitions are disposed of with the above direction. No costs. Connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

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Sub Assistant Registrar

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To

1.The Director of Public Health,
and Preventive Medicine, Chennai 6.

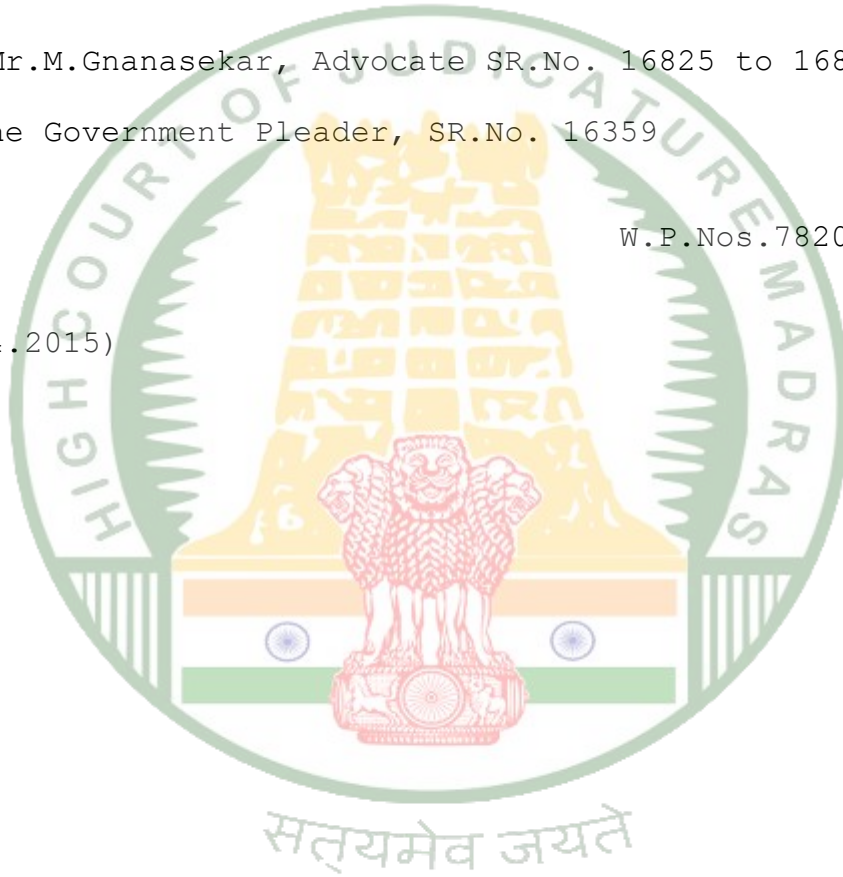
2.The Deputy Director of Health Services,
Thiruvavarur

3 CCs to Mr.M.Gnanasekar, Advocate SR.No. 16825 to 16827

1 CC to the Government Pleader, SR.No. 16359

W.P.Nos.7820 to 7822 of 2015

SAI (CO)
PSI (07.04.2015)



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