

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2016

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.Nos.10858 of 2016 & 38040 of 2015

Sujith.N.V. .. Petitioner in W.P.No.10858 of 2016
Boby Jesel.C.E. .. Petitioner in W.P.No.38040 of 2015

-Vs-

1. State of Tamil Nadu
Rep.by its Secretary
Department of Public Health &
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 1 & 2 in both the W.P's

Petitions under Article 226 of the Constitution of India,
praying for the issue of a writ of mandamus, directing the
respondents to appoint the petitioners to the post of Health
Inspector Grade II.

For petitioners:: Ms.Anna Mathew for
Mr.R.Thirumoorthy

For Respondents :: Mr.S.Gunasekaran
Additional Government Pleader

ORDER

Mr.N.V.Sujith and Mrs.C.E.Boby Jesel have come to this
Court by filing separate writ petitions with a common prayer for
issuance of a writ of mandamus, directing the respondents to
appoint them in the post of Health Inspector Grade II.

2. Heard Ms.Anna Mathew, learned counsel for the
petitioners and Mr.S.Gunasekaran, learned Additional Government
Pleader taking notice on behalf of the respondents.

3. Ms. Anna Mathew, learned counsel appearing for the petitioners submitted that there are several vacancies for the post of Health Inspector Grade-II and the respondents have not followed the proper selection procedure to fill up all the vacancies as well as the seniority in the employment exchange, since they have considered and appointed some of the juniors of the petitioners, namely, Mr.D.Swamidoss and Mr.K.Saravanan, who had registered their names in the employment exchange only during 2007 and 2009 respectively. She has also brought to the notice of this Court the various interim orders passed by this Court in Writ Petition No.16488 of 2012 dated 28.6.2012, W.P.Nos.4552 and 4553 of 2015 dated 23.2.2015 and W.P.No. 38040 of 2015 dated 30.11.2015 and also the final order passed by this Court in W.P.No.29137 of 2015 dated 16.10.2015 (Suresh Kumar vs. State of Tamil Nadu and another) and submitted that in Sureshkumar's case, this Court, while allowing the said writ petition, has directed the respondents therein to appoint the petitioner therein as Health Inspector Grade-II, in the light of the G.O.Ms.No.305, Public Health and Family Welfare (N1) Department dated 22.9.2009. Learned counsel further submitted that insofar as the seniority and other consequential benefits are concerned, this Court has also given liberty to the petitioner therein to submit a representation to the respondents and on receipt of the same, the respondents were directed to consider the same on merits and in accordance with law after giving notice to the person concerned. Therefore, the learned counsel for the petitioners prayed for a similar order in these writ petitions also.

4. Mr.S.Gunasekaran, learned Additional Government Pleader appearing for the respondents submitted that subject to the eligibility of the petitioners, their representation would be considered.

5. It is an admitted fact that the petitioners have registered their names in the Employment Exchange during 24.11.06 & 4.2.97 respectively and their juniors namely, Mr.D.Swamidoss and Mr.K.Saravanan were considered for the post of Health Inspector Grade II, over looking the seniority of the petitioners maintained in the employment exchange. In Sureshkumar's case cited supra, this Court has given a specific direction to the respondents therein to appoint the petitioner therein as Health Inspector Grade-II in the light of the G.O.Ms.No.305, dated 22.9.2009, by taking into consideration paragraph No.8 of the said order with liberty to the petitioner therein to submit a representation to the respondents therein with regard to the seniority and other consequential benefits, which may arise out of the said order, and on receipt of the

same, the respondents therein were directed to consider and pass orders. It is relevant to extract paragraphs 11 and 12 of the said order, which read as follows:

"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."

6. Since the petitioners herein are also similarly placed persons as that of the petitioner in the above said writ petition, their cases should also be considered by the respondents in the light of the G.O.Ms.No.305, Public Health and Family Welfare (N1) Department dated 22.9.2009. Accordingly, following the above said order, these writ petitions are allowed and the respondents are directed to appoint the petitioners as Health Inspector Grade-II, in the light of the G.O.Ms.No.305 dated 22.9.2009, by taking into consideration paragraph No.8 of the above said order, if they are otherwise qualified. The respondents 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 petitioners.

7. Insofar as the seniority and other consequential benefits which may arise out of this order, subject to the eligibility of the petitioners, the petitioners are at liberty to submit a representation to the respondents within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to consider it on merits, after giving notice to the persons concerned, and pass orders in accordance with law within a period of eight weeks thereafter and communicate the decision taken to the petitioners as well as to the persons concerned. Consequently, W.M.P.No.9473 of 2016 and M.P.No.1 of 2015 are closed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Department of Public Health &
Family Welfare,
Fort St.George,
Chennai 600 009.

2. The Director of Public Health &,
Preventive Medicine,
D.M.S. Compound ,
Teynampet,
Chennai 600 018.

+2cc to Mr.R.Thirumoorthy, Advocate sr.23760 & 23759
+1cc to the Government Pleader Sr.238771

W.P.Nos.10858 of 2016 &
38040 of 2015

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NR II(CO)
srg(25/04/2016)