

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01..03..2016

Reserved on : 31.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

W.P.Nos.29553 to 29555 of 2014,
32344 to 32346 of 2014,
and 6234 of 2015
and M.P.Nos.1 to 3 of 2014 (each)
in W.P.Nos.29553-29555 of 2014,
M.P.Nos.1 and 2 of 2014 (each)
in W.P.Nos.32344-32346 of 2014
and

M.P.Nos.1 and 3 of 2015 in W.P.No.6234 of 2015

G.Gopal .. Petitioner in W.P.No.29553/2014
K.Vellaichamy .. Petitioner in W.P.No.29554/2014
S.Muthuvel .. Petitioner in W.P.No.29555/2014
G.Sundaramurthy .. Petitioner in W.P.No.32344/2014
R.Gnanasekaran .. Petitioner in W.P.No.32345/2014
S.Muthusamy .. Petitioner in W.P.No.32346/2014
N.Kandasamy .. Petitioner in W.P.No.6234/2015

Vs.

1. The State of Tamil Nadu
rep. by its Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai - 9.
2. The Director of Public Health and
Preventive Medicine,
Teynampet, Chennai - 6. .. Respondents in W.P.Nos.29553 to
29555/2014 & 32344 to 32346/2014
and Respondents 1 and 2 in W.P.
No.6234/2015
3. M.Senthilkumar ** .. Respondent No.3 in W.P.
No.6234/2015

** R3 is impleaded as per order
dated 28.04.2015 in M.P.No.2/2015
in W.P.No.6234/2015

* * *

Common Prayer in W.P.Nos.29553 to 29555 of 2014 : Writ Petitions filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus to call for the records in pursuant to the impugned order passed by the first respondent G.O.Ms.No.347, Health and Family Welfare (L1) Department, dated 29.10.2014 and quash the same as ultravires to the adhoc rules framed under Article 309 of the Constitution of India and consequently direct the respondents to consider the petitioners' names for further promotion in the Tamil Nadu Public Health Subordinate Services based on their seniority.

Common Prayer in W.P.Nos.32344 to 32346 of 2014 : Writ Petitions filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus directing the respondents to consider the petitioners' names to the post of Non Medical Supervisor in the Tamil Nadu Public Health Subordinate Services based on their seniority.

Prayer in W.P.No.6234 of 2015 : Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus directing the respondents to permit the petitioner to hold the post of Non Medical Supervisor in the Tamil Nadu Public Health Subordinate Services in Theni District based on his seniority and the option letter submitted by the petitioner in the counselling held on 23.07.2013.

* * *

For Petitioners in : Mr.V.Bharathidasan
all these W.Ps. for M/s.M.Saravanakumar

For Respondents in : Mr.V.Jayaprakash Narayanan,
all these W.Ps. Special Government Pleader
for RR1 and 2

Mr.R.Jayaprakash for R3 in W.P.
No.6234/2015

COMMON ORDER

Since all these writ petitions are arising out of a common question involved, these writ petitions have been taken up together for hearing and disposed of by means of this common order.

Background facts of these writ petitions run thus :

2.1. The petitioners in all these writ petitions were appointed as Leprosy Inspectors in the National Leprosy Eradication Programme (NLEP) under the control of the Director of Medical and Rural Health Services in the Health and Family Welfare Department on the following dates :

Sl. No.	W.P.No.	Name of the Petitioner	Date of Appointment
1	29553/14	G.Gopal	07.05.1987
2	29554/14	K.Vellaichamy	11.05.1987
3	29555/14	S.Muthuvel	12.05.1987
4	32344/14	G.Sundaramurthy	04.11.1987
5	32345/14	R.Gnanasekaran	22.05.1987
6	32346/14	S.Muthusamy	07.05.1987
7	6234/15	N.Kandasamy	09.05.1986

2.2. Due to the eradication of leprosy, the Leprosy Inspectors were integrated into Multi Purpose Health Worker Scheme, i.e., General Health Services under the control of the Director of Public Health and Preventive Medicine. This was done by issuance of G.O.Ms.No.320, Health and Family Welfare (G1) Department, dated 27.06.1997.

2.3. In the said G.O., the Leprosy Inspectors were re-designated as Health Inspectors Grade-IB and they were fixed in the scale of Rs.1200-30-1560-40-2040. It was the scale of pay of the Leprosy Inspectors. That is, their scale of pay was protected.

2.4. While so, the Health Inspectors Grade-I, who were already serving in the Department, were re-designated as Health Inspectors Grade-IA and their scale of pay was fixed above the Health Inspectors Grade IB at Rs.1350-30-1440-40-1800-50-2200.

2.5. The works and duties of Health Inspectors Grade-IA and the works and duties of Health Inspectors Grade-IB are one and the same. However, a distinction was made in the scale of pay, as stated above.

2.6. Further, the feeder categories for promotion to the post of Health Inspectors Grade-IA are Health Inspector Grade-II and Laboratory Assistant. The scale of pay of Health Inspectors Grade-II at that time was Rs.975-25-1150-30-1660 and the scale of pay of Laboratory Assistant was Rs.950-20-1150-25-1500.

2.7. While the channel of promotion for the post of Health Inspectors Grade-IA is Block Health Supervisor and Technical Personal Assistant, the channel of promotion for Health Inspectors Grade-IB is Non-Medical Supervisor and Health Educator, as prescribed in the National Leprosy Eradication Programme.

2.8. The Leprosy Inspectors, who were re-designated as Health Inspectors Grade-IB, were demanding to give pay parity with Health Inspectors Grade-IA and they wanted that both the Health Inspectors Grade-IA and Grade-IB shall be merged as Health Inspector Grade-I with effect from

27.06.1997, the date of issuance of G.O.Ms.No.320, without any disparity, since both are doing the same duties and they shall also be promoted as Block Health Supervisors and Technical Personal Assistants.

2.9. But the Health Inspectors Grade-IB were discriminated and they were given lesser scale of pay and they were also not considered for promotion to the post of Block Health Supervisor and Technical Personal Assistant, while Health Inspectors Grade-II and Laboratory Assistants, who were promoted as Health Inspectors Grade IA, were given promotion to the post of Block Health Supervisors and Technical Personal Assistant. On promotion as Health Inspectors Grade-IA, they were given higher scale.

3.1. While so, the Government accepted the demand of the Leprosy Inspectors, who were re-designated as Health Inspectors Grade-IB, and issued G.O.Ms.No.382, Health and Family Welfare (N1) Department, dated 12.10.2007.

3.2. By the said G.O., the Health Inspectors Grade-IB were re-designated as Health Inspectors Grade-I and the Health Inspectors Grade-IA were also re-designated as Health Inspectors Grade-I and Health Inspectors Grade-IB, who were re-designated as Health Inspectors Grade-I, were also given the same scale of Rs.4500-7000 from the date of issuance of the said G.O.382. That is, parity in scale was given with effect from the date of issuance of G.O.Ms.No.382, dated 12.10.2007.

3.3. Further, Clause 6(iv) of G.O.Ms.No.382, dated 12.10.2007, states that the Health Inspector Grade-IB, who were re-designated as Health Supervisors Grade-I, would be placed in the seniority list of Health Inspectors Grade-I below the last person of the erstwhile Health Inspector Grade-IA already working in the Department, as on 12.10.2007.

3.4. Further, Clause 6(v) of G.O.Ms.No.382, states that the Health Inspectors Grade-IB, who were re-designated as Health Inspectors Grade-I, pursuant to that G.O., could not claim promotion to the post of Block Health Supervisors and Technical Personal Assistants, till the last person in the list of the erstwhile Health Inspectors Grade-IA, who were re-designated as Health Inspectors Grade-I, got promotion as Block Health Supervisor and Technical Personal Assistant.

4.1. A batch of writ petitions in W.P.Nos.23893 of 2006 etc. were filed by the Leprosy Inspectors questioning para 6(iv) and 6(v) of G.O.Ms.No.382, dated 12.10.2007, and also seeking parity in pay from 27.06.1997, the date of issuance of G.O.Ms.No.320 merging Leprosy Inspectors in the Public Health Services with all consequential benefits. Those writ petitions were allowed on 23.07.2010 by this Court in the judgment in S.Sivaguru V. State of T.N., reported in (2010) 6 MLJ 468.

4.2. The State as well as the aggrieved Health Inspectors Grade-I, who were promoted from Health Inspectors Grade-II, took it on appeal to the Apex Court and the Apex

Court, by a detailed order dated 07.05.2013 in Civil Appeal Nos.4483-4485 of 2013 arising in SLP Nos.94492-94494 of 2010, reported in 2010 (6) SCC 335, upheld the order of this Court, referred to above in 2010 (6) MLJ 468.

4.3. Therefore, this Court as well as the Apex Court held that on merger of the Leprosy Inspectors in the Multi Purpose Health Worker Scheme under the Directorate of Public Health and Preventive Medicine, they should be equated with the then serving Health Inspectors Grade-I as on 27.06.1997, the date of issuance of G.O.Ms.No.320. It was further held that the Leprosy Inspectors, who got integrated in the Public Health stream as Health Inspectors Grade-I, shall be fixed enbloc at the bottom of the then serving Health Inspectors Grade-I as on 27.06.1997, the date of integration.

4.4. It is, thus, made clear by this Court as well as the Apex Court that the Leprosy Inspectors, who were absorbed as Health Inspectors Grade-IB as on 27.06.1997, shall be placed above the Health Inspectors Grade-IA, who were promoted from Health Inspectors Grade-II and Laboratory Assistant after 27.06.1997. That is, the Health Inspectors Grade-IA, who were promoted from Health Inspector Grade-II and Laboratory Assistant after 27.06.1997 shall be treated as Juniors to the Health Inspectors-IB (Leprosy Inspectors), who were re-designated as Health Inspectors Grade-I.

5.1. In these circumstances, the order of the Apex Court, referred to above, was implemented and the Health Inspectors Grade-I, who were formerly Health Inspectors Grade-IB, were placed below the Health Inspectors Grade-I, who were serving as on 27.06.1997. Thus Health Inspectors Grade-I, who were formerly Health Inspectors Grade IB, were also given promotion as Block Health Supervisors by drawing a panel dated 29.07.2013 by the Director of Public Health and Preventive Medicine, pursuant to the order of the Apex Court, referred to above. Accordingly, the petitioners herein, who were Leprosy Inspectors and got absorbed in Public Health Services, were promoted as Block Health Supervisors.

5.2. As stated above, the channel for promotion to Health Inspectors Grade- IB is Non-Medical Supervisor and Health Educator. Now, the Health Inspectors Grade IB are re-designated as Health Inspectors Grade-I, pursuant to the judgment of this Court and the Apex Court and the re-designation takes effect from 27.06.1997, the date of issuance of G.O.Ms.No.320.

6.1. For promotion to the post of Non-Medical Supervisor, the service Rules provide for one month condensed training for Leprosy Inspectors.

6.2. The Government did not send the then Leprosy Inspectors, who were serving as Health Inspectors Grade-IB and later re-designated as Health Inspectors Grade-I, for training for one reason or the other. The same is not in dispute. Hence, a large number of vacancies in the post of Non Medical

Supervisor were not filled.

6.3. The Government issued letter No.37070/L1/2012-1, dated 12.07.2013, to promote the seniors re-designated as Health Inspectors Grade-I, who were formerly called as Health Inspectors Grade IB, pursuant to the judgment of the Apex Court, as Block Health Supervisors/Non Medical Supervisors. Based on the same, the petitioners were promoted as Block Health Supervisors, since they were not sent for one month condensed training to get promotion to the post of Non Medical Supervisor.

7. Thereafter, the Government issued G.O.Ms.No.347, Health and Family Welfare Department, dated 29.10.2014 granting relaxation in the Service Rules that require one month condensed training for Leprosy Inspectors for promotion to the post of Non Medical Supervisor. It was stated in G.O.Ms.No.347 that the Director of Public Health and Preventive Medicine stated that out of 410 total sanctioned cadre strength of Non Medical Supervisors, 345 posts were vacant and therefore, the Director requested the Government to relax the rule relating to requirement of one month training for promotion to the post of Non Medical Supervisor. It was proposed that after promotion, those persons could be sent for training. It is useful to extract paragraphs 2 to 6 of G.O.Ms.No.347, dated 29.10.2014 :

"2. The Director of Public Health and Preventive Medicine has also stated that the vacancies for the post of Non Medical Supervisor could not be filled up entirely during the panel year 2013-14 due to the dearth of qualified hands. The sanctioned cadre strength of Non Medical Supervisor is 410 out of which 345 posts are vacant at present. As per the Adhoc rules for the post of Non Medical Supervisor issued in the Government Order first read above as amended in the Government order second and third read above, for promotion to the post of Non Medical Supervisor, the Leprosy Inspector should have a certificate for having successfully undergone condensed Training Course for Non-Medical Supervisors for a minimum period of one month. This condensed training is imparted to Health Inspectors Grade-I at the rate of 40 candidates per batch for promotion as Non Medical Supervisor. As on the crucial date for the panel year 2014-15 only 28 persons completed the required condensed training and eligible for the promotion as Non Medical Supervisor.

3. Pending re-organization of the cadre of Non Medical Supervisor and Health Educator, the Director of Public Health and Preventive Medicine has stated that if the promotions have been considered only on completion of the training as per rule, it will take more time to

fill up the huge numbers of vacancies in the cadre of Non Medical Supervisors and some of the Health Inspectors Grade-I who have put a long service will be retiring from service shortly without any promotions. Further as per the orders issued in the Government Order fifth read above, the Senior Health Inspectors have to be promoted as Block Health Supervisor / Non Medical Supervisor with effect from 7.11.2008 on par with their junior who is working as Block Health Supervisor. Hence, he has requested the Government to consider continuance of the existing system of promotion till such time of re-organization of the cadre. The prescribed training will be imparted within one year of their promotions.

4. The Director of Public Health and Preventive Medicine has also requested to permit him to promote the eligible persons, who have completed the Non Medical Supervisor Training and promotion for the individuals without undergoing training, in relaxation of rules, to fill up the entire vacancies and without hindrances to the normal work. As on date 34 Health Inspectors Grade-I are fully qualified as per rule for promotion as Non Medical Supervisor Training. 65 Non Medical Supervisors, who have completed the required Health Educator training for appointment to the post of Health Educator and have not served as Non Medical Supervisor for a period of five years.

5. After a detailed examination of the proposal of the Director of Public Health and Preventive Medicine, the Government issue the following orders, without infringing the rights of the seniors as per G.O.(Ms)No.110, Health and Family Welfare Department, dated 6.5.2014:-

- i. The Director of Public Health and Preventive Medicine is permitted to appoint eligible Multipurpose Health Supervisors (formerly Health Inspector Grade-IB - erstwhile Leprosy Inspectors), who have completed the Non Medical Supervisor Training, on promotion, as Non Medical Supervisor in the existing vacancies, in the order of seniority.
- ii. To appoint the Non Medical Supervisors, who have acquired the two months condensed training for Health Educator and not served the required period of five years, as Non Medical Supervisor, on promotion, as Health Educator in the existing vacancies, in the order of seniority, in relaxation of rule 5 (i) relating to experience qualification

prescribed in the Adhoc rules issued in the Government Order fourth read above, for the post of Health Educator ; and

- iii.to appoint the Multipurpose Health Supervisors (formerly Health Inspector Grade-IB - erstwhile Leprosy Inspectors), who have not acquired the training as per rule, as Non Medical Supervisor, on promotion in the existing vacancies, in the order of seniority, in relaxation of rule 3 (ii) relating to condensed training course prescribed in the Adhoc rules issued in the Government Order first read above and subsequently amended in the Government Order second and third read above.

6. While effecting promotion in relaxation of rules, the Director of Public Health and Preventive Medicine is directed to ensure that such relaxation shall be done uniformly to all and if any of the Junior had been promoted earlier by way of relaxation of rule relating to training etc. the same shall be extended to seniors."

8.1. At this juncture, these writ petitions have been filed one after the other.

8.2. W.P.Nos.29553 to 29555 of 2014 have been filed to quash the G.O.Ms.No.347. The grievance of the petitioners in these writ petitions is that due to such relaxation, the juniors to the petitioners could be promoted as Non Medical Supervisors and the petitioners were not given option to become Non Medical Supervisors and they are also willing to undergo training as per G.O.Ms.No.347, on appointment to the post of Non Medical Supervisors from Block Health Supervisors.

8.3. The petitioners in W.P.Nos.32344 to 32346 of 2014 and 6234 of 2015 sought direction to the official respondents to consider them for the post of Non Medical Supervisor based on the seniority, though they are working as Block Health Supervisors, after the judgment of the Apex Court. That is, the crux of the prayer is to give them the benefit of G.O.Ms.No.347, as they are seniors. Their case is that if their juniors are promoted as Non Medical Supervisors from the post of Health Inspectors Grade-I, they should be given option, before those juniors were promoted as Non Medical Supervisors, to come as Non Medical Supervisors giving the benefit of G.O.Ms.No.347, dated 29.10.2014.

8.4. Taking note of these facts, this Court felt that those seniors have a prima facie case and therefore, issued the following direction on 06.03.2015 in W.P.No.6234 of 2015 :

"Notice of motion returnable by

20.04.2015.

Private Notice is also permitted.

There shall be an Interim Order directing the respondents to keep the proceedings in abeyance for promotion to the post of Non Medical Supervisor, in the meantime."

The said order still holds good, as the same is not vacated.

9. Therefore, in all these writ petitions, the issue that arises for consideration is as to whether senior Health Inspectors Grade-I, formerly health Inspectors Grade-IB, who were promoted as Block Health Supervisors in the year 2013 could be given the benefit of G.O.Ms.No.347. That is, the issue is as to whether they should be given a right to exercise option to continue as Block Health Supervisors or to avail the new benefit given in G.O.Ms.No.347.

10. In W.P.No.6234 of 2015, one Mr.M.Senthil Kumar, who joined the service as Leprosy Inspector in the year 1988 subsequent to the petitioners, filed an application to implead him in the writ petition. This Court allowed his application and he is made as third respondent in W.P.No.6234 of 2015. The said Mr.Senthil Kumar sought to vacate the interim order granted by this Court in W.P.No.6234 of 2015, that was extracted above. According to Mr.Senthil Kkumar, his seniors, who were promoted as Block Health Supervisors, cannot seek to become Non Medical Supervisors on their promotion as Block Health Supervisors and in view of the aforesaid interim order, the entire promotion was held up.

11.1. The official respondents filed a common counter-affidavit in W.P.Nos.29553 to 29555 of 2014. The learned Government Advocate submitted that the same would also be taken as counter-affidavit for other writ petitions, as the issue involved in all these cases is one and the same.

11.2. In paragraph 12 of the common counter-affidavit, it is stated that the petitioners, who were promoted as Block Health Inspectors, cannot be considered for the post of Non Medical Supervisors and they cannot be deputed for training. According to the official respondents, the Health Inspectors Grade-I could alone be considered for promotion to the post of Non Medical Supervisor and they could alone be sent for training, as per G.O.Ms.No.347, within one year, on promotion.

11.3. It is pleaded in the counter-affidavit that having opted to get promotion as Block Health Supervisors, the petitioners could not seek to give them the post of Non Medical Supervisor.

12. Heard both sides.

13.1. The learned counsel for the petitioners submitted that when G.O.Ms.No.347, dated 29.10.2014, was issued granting relaxation in the rules for promotion to the

post of Non Medical Supervisor, the said benefit shall also be extended to the petitioners, who are seniors in the cadre of Health Inspectors Grade-I, formerly Health Inspectors Grade-IB (Leprosy Inspectors). According to him, when a new benefit is granted by way of G.O.Ms.No.347, the official respondents should have given an option to the petitioners and other seniors Health Inspectors Grade-I, who were promoted to the post of Block Health Supervisors, after the order of the Apex Court.

13.2. According to him, for promotion to the post of Non Medical Supervisor, the Health Inspectors Grade-I should undergo training, but the petitioners and other seniors were not sent for training for no fault of them. The sending for training was kept in abeyance. Hence, in the absence of G.O.Ms.No.347, the petitioners, who were seniors, had no option, but to accept the promotion to the post of Block Health Supervisor. But once the Government thought to relax the rule, the benefit of such relaxation shall be given to the seniors also by giving option to the seniors. The seniors have to opt either to continue in the post of Block Health Supervisors or to become Non Medical Supervisors and to go for one month condensed training, after being posted as Non Medical Supervisors.

13.3. It is submitted that the question of financial loss would not arise, since the post of Non Medical Supervisor and the Block Health Supervisor carry the same scale of pay.

13.4. According to him, the petitioners feel that they could get further promotion to the post of Health Educator from the post of Non Medical Supervisor in the said channel and thus, if they were not given promotion as Non Medical Supervisors, the juniors could march over them to higher posts. In fact, the learned counsel for the petitioners placed heavy reliance on paragraph 6 of G.O.Ms.No.347. Paragraph 6 of G.O.Ms.No.347 shall be interpreted to include the senior Health Inspectors Grade I, who were formerly Health Inspectors Grade-IB, (Leprosy Inspectors) promoted as Block Health Supervisors. In that event, a direction, as sought for in W.P.No.6234 of 2015 and W.P.Nos.32344 to 32346 of 2014 to give them right to exercise option to come to the post of Non Medical Supervisor, as per G.O.Ms.No.347, is just and fair.

13.5. Though the prayer of the petitioners in W.P.Nos.29553 to 29555 of 2014 is to quash G.O.Ms.No.347, they would be satisfied if a direction is issued to the officials respondents to permit them to exercise option to come to the post of Non Medical Supervisor or to continue in the post of Block Health Supervisors and in such an event, they are willing to give up the prayer of quashing the G.O.Ms.No.347, dated 29.10.2014.

14. The learned Government Advocate made his submissions on the basis of the common counter-affidavit filed in W.P.Nos.29553 to 29555 of 2014. The learned Government

Advocate submitted that the petitioners are Block Health Supervisors promoted from the post of Health Inspectors Grade-I, formerly Health Inspectors Grade-IB (Leprosy Inspectors) and according to him, on promotion to the post of Block Health Supervisors, pursuant to the implementation of the order of the Apex Court, for the year 2013-2014 before the issuance of G.O.Ms.No.347, they could not ask the benefit of G.O.Ms.No.347, dated 29.10.2014.

15. The same is the argument of the learned counsel for the third respondent in W.P.No.6234 of 2015.

16. I have considered the submissions made by either side.

17. It is not in dispute that the petitioners were senior Health Inspectors Grade-I, formerly Health Inspectors Grade-IB (Leprosy Inspectors) and they were not sent for one month condensed training for further promotion to the post of Non Medical Supervisor. Sending of Health Inspectors Grade-I, formerly Health Inspectors Grade-IB (Leprosy Inspectors), for training was kept in abeyance by the Department. In any event, the petitioners, who are seniors cannot be blamed for not sending them to one month condensed training for promotion to the post of Non Medical Supervisor, as per the service rules. It is a different matter that they declined to go for training, when the Government sought to send them for training for promotion to the post of Non Medical Supervisor. The Health Inspectors Grade-I, formerly Health Inspectors Grade-IB (Leprosy Inspectors) were not given promotion to the post of Non Medical Supervisors, as stated above as they did not undergo training as required by the rules and in those circumstances, the senior Health Inspectors Grade-I, formerly Health Inspectors Grade-IB, were promoted as Block Health Supervisors for the year 2013-2014, after the judgment of the Apex Court, referred to above.

18. In those circumstances, due to non-sending of training, a large number of vacancies were not filled in the post of Non Medical Supervisor. The cadre strength of Non Medical Supervisors is 410 and 345 posts remain vacant, as no one was available with the required training. Hence, the Director of Public Health and Preventive Medicine sent proposals to the Government to grant appropriate relaxation in the rules requiring one month condensed training for promotion to the post of Non Medical Supervisor and such training could be given within one year, after promotion. The said proposal was accepted by the Government and the Government issued G.O.Ms.No.347, dated 29.10.2014. The said G.O.Ms.No.347 is extracted above.

19. As rightly contended by the learned counsel for the petitioners, I am of the view that the petitioners, who are seniors, shall be given an option to come to the post of

Non Medical Supervisor after the issuance of G.O.Ms.No.347, dated 29.10.2014. In fact, paragraph 6 of the said G.O.Ms.No.347 is clear to the said effect. It is also useful to extract paragraph 6 of G.O.Ms.No.347, dated 29.10.2014, again :

"6. While effecting promotion in relaxation of rules, the Director of Public Health and Preventive Medicine is directed to ensure that such relaxation shall be done uniformly to all and if any of the Junior had been promoted earlier by way of relaxation of rule relating to training etc. the same shall be extended to seniors."

20. Further, as rightly contended by the learned counsel for the petitioners, whenever a new benefit is granted, seniors cannot be denied the same and an option shall be given to them in the interest of justice. Furthermore, the contention of the learned counsel for the petitioners that no financial loss could be caused to the Government by extending the said option to the petitioners cannot be brushed aside. If these petitioners opted to become Non Medical Supervisors, the vacant posts of Block Health Supervisors could be filled from the juniors to the petitioners. But the juniors to the petitioners could not get the benefit of G.O.Ms.No.347, while the same is denied to the petitioners for no fault of them.

21. Hence, a direction is issued to the official respondents to permit the petitioners and other senior Health Inspectors Grade-I, formerly Health Inspectors Grade-IB (Leprosy Inspectors), who are promoted as Block Health Supervisors, to exercise option to come to the post of Non Medical Supervisors or to continue in the post of Block Health Supervisor. It is made clear that the Government shall fix a deadline and before the deadline, they should exercise their option. It should be an one time exercise. The same is necessitated due to issuance of G.O.Ms.No.347 granting relaxation from undergoing the training for promotion to the post of Non Medical Supervisors.

22. Before concluding, I am of the view that now after the complete merger of Health Inspectors Grade-IB and Health Inspectors Grade-IA as Health Inspectors Grade-I with effect from 27.06.1997, the channel of promotion to all the Health Inspectors Grade-I shall be one and the same hereinafter. Therefore, there cannot be any separate channel of promotion to Health Inspectors Grade-I, either promoted from the post of Health Inspectors Grade-IA or promoted from the post of Health Inspectors Grade-IB, and there is no distinction between Health Inspectors Grade-IA and Health Inspectors Grade-IB after merger, pursuant to the judgment of this Court as well as the Apex Court. The Government shall make this aspect clear.

23. In the result, I am not inclined to interfere with G.O.Ms.No.347, Health and Family Welfare Department, dated 29.10.2014 and at the same time, as stated above, a direction is issued to the official respondents to permit the senior Health Inspectors Grade-I, who are also serving as Block Health Supervisors, to exercise option to come to the post of Non Medical Supervisors and to undergo training for one month of being posted as Non Medical Supervisors from Block Health Supervisors or to continue in the post of Block Health Supervisor. The official respondents are also directed to issue appropriate proceedings within a period of one month from the date of receipt of a copy of this order for giving option setting deadline, as stated above.

24. These writ petitions are disposed of in the above terms. There shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Secretary,
Health and Family Welfare Department,
Govt. of Tamil Nadu,
Fort St. George, Chennai - 9.
2. The Director of Public Health and
Preventive Medicine,
Teynampet, Chennai - 6.

+1 cc to M/s.R.Jayaprakash, Advocate, sr.12948

+ 2 ccs to M.Saravanakumar, Advocate Sr 12939 (27/4/16)

W.P.Nos.29553 to 29555 of 2014,
32344 to 32346 of 2014,
and 6234 of 2015

jsv co
kra 14.03.2016