

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 04.07.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition Nos. 20227, 20677, 20839 and 20825 of 2016
WMP. Nos.17397 and 17398 of 2016, 17760 and 17761 of 2016,
17852 and 17853 of 2016, 17842 and 17843 of 2016

W.P.No.20227 of 2016

M.S. Murugesan .. Petitioner

-Versus-

1. The State of Tamil Nadu
Rep. by its Principal Secretary to Government,
Health & Family Welfare Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Commissioner of Food Safety,
Tamil Nadu Food Safety & Drugs Administration Department,
DMS Compound, Teynampet, 359, Anna Salai,
Chennai-600 006.

3. A. Bose
(R3 IMPEADED AS PER THE ORDER OF THIS COURT
DATED 20.06.16 BY BRJ IM WMP.NO.17749/16
IN WP.NO.20227/16) .. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari to
call for records relating to the impugned proceeding issued by
the 2nd Respondent in R.No.3406/2016/S1/FSSA dated 06.06.2016 and
to QUASH the same.

W.P.No.20677 of 2016

G. Venkatesan .. Petitioner

-Versus-

1. The State of Tamilnadu
Rep by its Principal Secretary
Health and Family Welfare Department
Fort St. George, Chennai.

2. The Commissioner of Food Safety

Tamilnadu Food safety and Drug Administration Department,
359, Anna Salai, Chennai-6. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for records of the 2nd respondent in its R.No.3406/2016/S1/FSSA dated 06.06.2016 and quash the same.

W.P.No.20839 of 2016

G.Senthil Rajkumar .. Petitioner

-Versus-

The Commissioner of Food Safety
Office of the Commissioner of Food Safety
and Drug Administration Department
No.359, D.M.S.Compound, Anna Salai
Chennai-600 006. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records which culminated in issuing the proceeding in R.No.3406/2016/S1/FSSA dated 06.06.2016 on the file of respondent, quash the same and consequently direct the respondent to draw the seniority list from among the Food Inspectors for promotion to the post of Food Safety Officer within a time to be specified by this Court.

W.P.No.20825 of 2016

P.Sundararaj .. Petitioner

-Versus-

1. The State of Tamilnadu
Rep by its Principal Secretary
Health and Family Welfare Department
Fort St. George, Chennai.

2. The Commissioner of Food Safety
Tamilnadu Food safety and Drug Administration Department,
359, Anna Salai, Chennai-6. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari to call for the records of the 2nd respondent in its R.No.3406/2016/S1/FSSA dated 06.06.2016 and quash the same.

For Petitioner

in W.P.No.20227 of 2016 : Mr.Muthukumarasamy
Senior counsel

for Mr.G.Sankaran

in W.P.No.20677 of 2016 : Mr.Venkatachalapathy
Senior Counsel
for Mr.Rajinikanth

in W.P.No.20839 of 2016 : Mr. P. Ganesan

in W.P.No.20825 of 2016 :Mr.Vijay Shankar

For Respondents :Mr. Sukumar
(in all W.P.'s) Additional Advocate General
Assisted by Mr. A. Kumar,
Government Advocate

For Respondent 3 in
WP.20227/16 : Mr.R.Jayaprakash

C O M M O N O R D E R

After some elaborate arguments by the learned Senior counsels appearing for the petitioner as well as by the learned Additional Advocate General appearing for the respondents, it is now brought to the notice of this Court that the very same issue involved in these writ petitions has already been dealt with by the Madurai Bench of this Court, in W.P.(MD) No.10465 of 2016 on 22.06.2016. The relevant portion in the said order is extracted hereunder:

"5. Opposing the above said prayer, the learned Government Advocate appearing for the respondents 1 and 2 placing reliance on my order passed in a batch of Writ Petitions in W.P.Nos.15780 of 2015, 11255 & 15004 of 2016, dated 27.04.2016, submitted that when this Court has already held that conducting transfer counseling for Food Safety Officers, who are working far away place to come to urban areas, cannot be injuncted with the further direction that until the service Rules are made, no seniority list should be prepared, the present impugned proceedings is issued by the second respondent stating that the seniority list of Food safety officers prepared by taking into account the date of entry into service in their original post, are going to be followed for the purpose of general transfer counseling alone.

6. The learned counsel appearing for the third respondent reiterates the submissions made by the learned Government Advocate and prayed for dismissal of this Writ Petition.

7. The statement on instructions made by the learned Government Advocate would certainly take care of the apprehension of the petitioner. Therefore, this Court is not inclined to entertain the Writ Petition. As I have already held in the earlier order, the respondents can proceed with the General Transfer counseling for Food Safety officers on the basis of the seniority list prepared by taking into account the date of entry into their original post and the same should be used only for transfer counseling and not for promotion."

2. It is further brought to the notice of this Court that pursuant to the order mentioned above, a counseling was conducted on 24.06.2016 and 25.06.2016 and thereafter the transfers has been given effect to and some of the officers have been joined the transferred place.

3. In view of the aforesaid circumstances, the petitioners apprehension is unfounded in so far as the seniority is concerned. The petitioners are duly safeguarded by the earlier order passed by the Madurai Bench of this Court in W.P.(MD) No.10465 of 2016 dated 22.06.2016. Therefore, following the order dated 22.06.2016, these writ petitions are disposed of with the following observation :

(i). It is made clear that the proposed list through which the counseling was conducted and transfer effected are meant only for the purpose of transfer alone and it has got nothing to do with the seniority or promotion of the employees.

(ii). As the Service Rules have not been formulated till date, the, further right or promotion is duly safeguarded by the order of this Court, dated 22.06.2016 in W.P.(MD)No.10465 of 2016 and no further order is required in this regard.

4. At this stage, the learned Senior counsel appearing for the petitioners would contend that the petitioners may be permitted to submit a representation to the respondents expressing their grievance that the rationale fixed for transfer by taking the date of entry as the basis would affect their legal right and before conducting a counseling an opportunity

may be given to the petitioners so that they can opt for transfer to a particular place.

5. Having regard to the above submission made on behalf of the petitioners, the petitioners are permitted to submit a representation to the second respondent, within a period of one week from the date of receipt of a copy of this order and on receipt of such representation the second respondent shall pass orders, on merits and in accordance with law, as expeditiously as possible, preferably within a period of three weeks thereafter. Accordingly, these Writ Petitions are closed. No costs. Consequently, connected Miscellaneous Petitions are closed.

arr/rsh

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Principal Secretary to Government,
Health & Family Welfare Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Commissioner of Food Safety,
Tamil Nadu Food Safety & Drugs Administration Department,
DMS Compound, Teynampet, 359, Anna Salai,
Chennai-600 006.

+ 1 cc to Mr.P.Ganesan, Advocate Sr 37323
+ 1 cc to Mr.G.Sankaran, Advocate Sr 37424
+ 4 ccs to Govt.Pleader, Sr 37654 TO 37657
+ 1 cc to Mr.R.Jayaprakash, Advocate Sr 38027

KR/11/8/16

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WP Nos. 20227 to 20825/2016