

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.32682 of 2016
and
W.M.P.No.28313 of 2016

V.Mohan ... Petitioner
Vs.

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

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the 2nd respondent to consider the petitioner's representation dated 07.09.2016 in the light of the order passed by this Court in W.P.Nos.29553 to 29555 of 2014, 32344 to 32346 of 2014 and 6234 of 2015, dated 01.03.2016 and consequently, to promote and to post the petitioner as Non Medical Supervisor (NMS) in Tamil Nadu Public Health Subordinate Service on promotion as per his seniority in Chennai Health Unit .

For Petitioner : Mr.M.Saravanakumar

For respondents : Mr.N.Srinivasan, AGP

ORDER

This writ petition has been filed by the petitioner, praying for issuance of a Writ of Mandamus, to direct the 2nd respondent to consider the petitioner's representation dated 07.09.2016 in the light of the order passed by this Court in

W.P.Nos.29553 to 29555 of 2014, 32344 to 32346 of 2014 and 6234 of 2015, dated 01.03.2016 and consequently, to promote and to post the petitioner as Non Medical Supervisor (NMS) in Tamil Nadu Public Health Subordinate Service on promotion as per his seniority in Chennai Health Unit .

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1. The petitioner was appointed as Leprosy Inspector on 27.05.1988 in the Directorate of Medical Services Department and his service was regularised from the date of his initial appointment and probation was also declared and the respondents awarded Selection Grade and Special Grade to the petitioner. Now, the petitioner is working as Health Inspector Grade-I, in the office of the Deputy Director (Leprosy), Medical and Rural Health Services, Teynampet, Chennai and the petitioner is not facing any charge or punishment.

2-2.It is further stated by the petitioner that after integrating the Leprosy Control Scheme with Multipurpose Health Workers Scheme in G.O.Ms.No.320, dated 27.06.1997, in Multi Purpose Health Supervisors (formerly known as Health Inspector Grade I-B - erstwhile Leprosy Inspectors), designated as Health Inspector Grade-I, as per G.O.Ms.No.110, Health and Family Welfare Department, dated 06.05.2014, now Health Inspectors Grade-I are entitled to be promoted to the post of Non-Medical Supervisor and the next avenue for promotion to the petitioner is Non-Medical Supervisor. As per service Rules, the person completed two months Non-Medical Supervisor Training at Central Leprosy Training and Research Institute, Chengalpattu is considered for Non-Medical Supervisor post. The 2nd respondent deputed the Health Inspectors for training time to time as per the seniority.

2-3.It is further stated by the petitioner that the 2nd respondent addressed before the 1st respondent stating 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 hence, he has requested the Government to consider continuance of the existing system of promotion till such time or re-organization of the cadre. The prescribed training will be imparted within one year of their promotions. The above request was accepted by the Government and the 1st respondent issued G.O.Ms.No.347, Health and Family Welfare (L1) Department, dated 29.10.2014. Based on the said GO, the

2nd respondent issued a circular to all Deputy Director of Health Services and to the Deputy Director of Medical Services (Leprosy) concerned in his letter dated 24.11.2014 and thereby, directed them to send the service particulars and record sheet of the individuals working as Health Inspector Grade-I under their control for preparation of promotion panel for the year 2014-2015 for the post of Non-Medical Supervisor and further, instructed the Deputy Directions to send the service particulars of the individual on or before 03.12.2014.

2-4.The 2nd respondent in his proceedings dated 09.12.2014 informed that the promotion counseling for the post of Non-Medical Supervisor (NMS) to be held on 11.12.2014 for 1st batch (200 candidates) and on 12.12.2014 for 2nd batch (150 candidates). All over the State, the sanctioned cadre strength of Non Medical Supervisor is 410, out of which 345 Non Medical Posts are vacant at present. Therefore, the 2nd respondent called 350 candidates for promotion counseling for the post of Non Medical Supervisor (NMS). In the above panel, the petitioner's name was placed in Sl.No.187 and his Seniority Number is 5270. Around 250 persons participated in the promotion counseling held on 11.12.2014 and 12.12.2014 for the post of Non Medical Supervisor (NMS). According to the petitioner, the 2nd respondent had not conducted the counseling in a transparent manner and he has not notified all 345 vacancies neither in the official website nor published in the Notice Board before the counseling date.

2-5.The petitioner was called for promotion counseling for the post of Non Medical Supervisor (NMS) held on 11.12.2014 in the order of his seniority. At the time of counseling, the petitioner submitted his counseling declaration form and requested the 2nd respondent to accommodate him in any one of the vacancies kept vacant in Madras. But, the 2nd respondent refused to show the above said vacancy places in Madras and insisted him to choose any one of the place kept vacant at far away place and otherwise the 2nd respondent insisted him to write as if he is not willing for promotion. Thereafter, the petitioner came to know that his juniors were accommodated in Madras. According to the petitioner, the 2nd respondent has not conducted the promotion counseling in a fair and transparent manner. It is further stated by the petitioner that challenging the G.O.Ms.No.347, Health and Family Welfare (L1) Department, dated 29.10.2014, some of the petitioner's colleagues filed writ petitions in W.P.Nos.29553 to 29555 of 2014, 32344 to 32346 of 2014 and 6234 of 2015 before this Court and this

Court by order dated 01.03.2016, has observed as follows_

"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 Non Medical 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 supra."

Pursuant to the above order of this Court, the 2nd respondent issued a letter in his proceedings in R.No.21197/MP IV/S1/2015, dated 26.03.2016 and thereby, directed all Deputy Directors, to obtain option letter from the senior most Health Inspectors for promotion to the post of Non Medical Supervisor. So far as the petitioner's case is concerned, the respondents have not obtained option letter.

2-6.Now, the 2nd respondent has called for service particulars in his proceedings in R.No.56727/MP II/S1/2016, dated 01.09.2016, for promotion to the post of Non Medical Supervisor / Block Health Supervisor and directed all the Deputy Directors of Health Services to submit the service particulars of individual on or before 16.09.2016. In the said proceedings, the 2nd respondent permitted the senior most persons to participate only in the Block Health Supervisor promotion counseling alone and denying the opportunity to participate in the Non Medical Supervisor counseling. Immediately, the petitioner made a detailed representation to the 2nd respondent through proper channel on 07.09.2016 and the same was kept in cold storage. Now, the 2nd respondent is taking steps to conduct counseling for the promotional post of Non Medical Supervisor in a hurried manner. Therefore, the actionsof the 2nd respondent is highly unwarranted and contrary to the dictum laid down by this Court in W.P.Nos.29553 to 29555 of 2014, 32344 to 32346 of 2014 and 6234 of 2015. Hence, the petitioner has come forward with the present writ petition before this Court.

3.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

4.Considering the facts and circumstances of the case and considering the limited scope of the prayer sought for by the petitioner in this writ petition, this Court directs the 2nd respondent to consider the petitioner's representation dated 07.09.2016 in the light of the order passed by this Court in W.P.Nos.29553 to 29555 of 2014, 32344 to 32346 of 2014 and 6234 of 2015, dated 01.03.2016, and pass orders, on merits and

in accordance with law, within a period of three weeks, from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim made by the petitioner and it is for the 2nd respondent to consider and pass orders purely on merits and in accordance with law.

With the above directions, the writ petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar

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Sub-Assistant Registrar

ssv

To

1.The Principal Secretary,
State of Tamil Nadu
Health and Family Welfare Department,
Fort St.George, Chennai-9.

2.The Director of Public Health and
Preventive Medicine,
Teynampet, Chennai-6.

+ 1 CC to Government Pleader SR NO 53492

+ 1 CC to Mr.M.Saravana Kumar, Advocate SR NO 52885

W.P.No.32682 of 2016

and

W.M.P.No.28313 of 2016

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GP/22.10.

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