

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition Nos.34721 to 34725 of 2016

and W.M.P.Nos.29908 to 29912 of 2016

1 P.V.Muruganandam ... Petitioner in WP.No.34721/2016
2 D. Gokuldoss ... Petitioner in WP.No.34722/2016
3 P. Karthikeyan ... Petitioner in WP.No.34723/2016
4 A. Balasubramanian ... Petitioner in WP.No.34724/2016
5 R. Mohan ... Petitioner in WP.No.34725/2016

vs.

1.The Government 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,
DMS Compound, Chennai-6. ... Respondents 1 and 2 in all WPs
3 Directed of Family Welfare,
DMS Compound, Chennai 6 ... 3rd Respondent WP.No.34724/16

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the first respondent to consider and issue orders regularising the services of the petitioner as Driver in a time scale of pay with effect from the date of initial appointment dated 4.1.2002, 22.3.2005, 11.03.2005, 03.06.1997, 28.05.1996, respectively within a time frame to be fixed by this Court.

For Petitioner : Mr.N.S.Nandakumar,
in all the writ petitions.

For Respondents : Mr.S.Gunasekaran,
Addl. Govt. Pleader,
in all the writ petitions.

COMMON ORDER

By consent, the main writ petitions themselves are taken up for final disposal.

2. The petitioners have come up with the present writ petitions for a mandamus, directing the first respondent to consider and issue orders regularising their services as Driver in a time scale of pay with effect from the date of their initial appointment viz., 4.1.2002, 22.3.2005, 11.3.2005, 3.6.1997 and 28.5.1996 respectively, within a time frame to be fixed by this Court.

3. It is the case of the petitioners that they are possessing valid driving licenses. In the year 2001, the Government of Tamil Nadu imposed a complete ban on recruitment in all the departments in all categories for various posts in Government. Even in the essential services departments like education, police and health departments many posts were kept vacant. Hence, all the departments made a representation to the Government for removal of the ban, pursuant to which, the Government passed an order in G.O.(D) No.15, Health and Family Welfare Department dated 22.3.2005, permitting to fill up the vacancies in the cadre of para-medical and supporting staff of Health Department, with outsourcing from private agencies. As per the said policy decision, the petitioners were appointed as Drivers through outsourcing agency. Though their initial appointment was on contract basis, they have fulfilled all the eligibility criteria for the post of Driver and they are fully qualified for the said post. As on date, they have completed more than ten years of continuous service. Hence, they have jointly gave a representation dated 16.8.2014 to the officials requesting them to regularize their services and appoint them in a time scale of pay and also give priority in case of regular recruitment. But, the same was not considered so far. Now, the petitioners came to understand that the respondents are filling up the post in which the petitioners are currently working, through employment exchange. Hence, they have come forward with the present writ petitions seeking a direction to the first respondent to consider and issue orders regularising their services as Driver in a time scale of pay with effect from the

date of initial appointment viz., 4.1.2002, 22.3.2005, 11.3.2005, 3.6.1997 and 28.5.1996 respectively.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioners submitted that for the post of driver, the minimum educational qualification prescribed by the Government is X Standard and a valid driving license and registration in the employment exchange. Since the petitioners have fulfilled all the above eligibility criteria, they are entitled to regularize their service. Further, the learned counsel by relying upon the decision of the Hon'ble Supreme Court in Uma Devi's case reported in 2006(4) SCC 1, submitted that if a person appointed on adhoc casual or contract basis were duly qualified and were working against the sanctioned posts and continued to work for several years without any intervention of the order of the court, then regularization can be done. Thus, he sought for a direction as stated above.

5. I have also heard the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioners, this Court directs the petitioners to send an individual representation along with a copy of this order, to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent is directed to consider the said representations seeking regularization of the services of the petitioners as Driver in a time scale of pay with effect from the date of their initial appointment and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter. All the writ petitions are disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

sbi

To

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

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

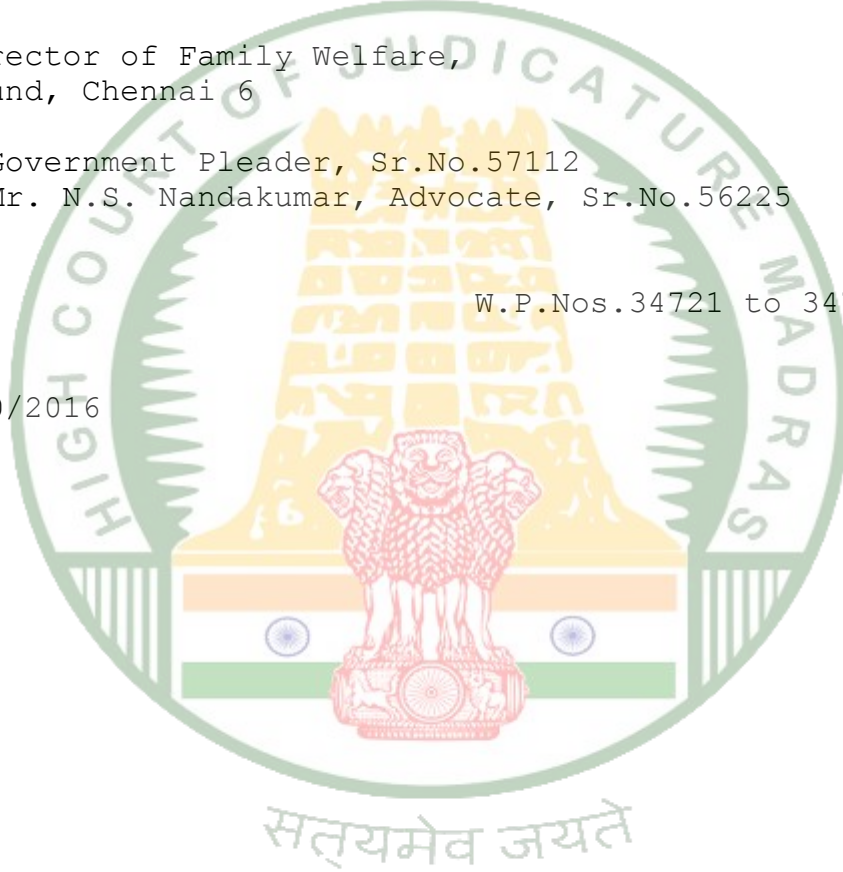
3. The Director of Family Welfare,
DMS Compound, Chennai 6

+1 CC to Government Pleader, Sr.No.57112

+5 CC to Mr. N.S. Nandakumar, Advocate, Sr.No.56225

W.P.Nos.34721 to 34725 of 2016

SV (CO)
MD : 07/10/2016



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