

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.35176 of 2016

A.Manoharan

... Petitioner

vs.

1. State of Tamil Nadu rep. by
the Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai-9.
2. Director of Medical Education,
Chennai-10.
3. Director of Medical and Rural Health
Services, Chennai-6.
4. Joint Director of Health Services,
Thiruvannamalai,
Thiruvannamalai District. ... Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the respondents to promote the petitioner as Radiographer from the date on which his juniors have been promoted, getting the relaxation from the Government as per G.O. (D) No.1310, Health and Family Welfare Department, dated 19.10.2015 by considering the representation made by the petitioner on 09.12.2015.

For Petitioner : Mr.C.Vediappan,
for M/s.C.S.Associates

For Respondents : Mr.S.N.Parthasarathi,
Government Advocate

ORDER

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondents to promote the petitioner as Radiographer from the date on which his juniors have been promoted, getting the relaxation from the Government as per G.O. (D) No.1310, Health and Family Welfare Department, dated 19.10.2015 by considering the representation made by the petitioner on 09.12.2015.

2. The case of the petitioner is that he joined as Watchman in Government Leprosy Centre, Tirumani, Kancheepuram District, on 12.04.1982 through Employment Exchange, under Physically Challenged Quota. His services were regularised on 21.10.1985 w.e.f. 11.04.1983. Subsequently, he was promoted as X-Ray Attendant on 13.03.1997 and posted at Government Hospital Tambaram. While so, the petitioner acquired the qualification of Certificate Course in Dark Room Assistant Post at Madras Medical College, Chennai. On the basis of the same, he was promoted as Dark Room Assistant on 28.03.2007 and posted at TB Centre, Dharmapuri. After serving at various places, he was posted at Government Hospital, Polur, Wandawashi as Radiographer by way of diversion as an additional work, in addition to his regular work of Dark Room Assistant.

3. The further case of the petitioner is that his next avenue of promotion is to the post of Radiographer. For the said post of Radiographer, the necessary qualification to be acquired is Radiological Assistant Course which is only a Certificate Course. The persons working as Dark Room Assistant which is a feeder category, for promotion to the post of Radiographer, did not possess the required qualification. Since there is necessity of man power for the post of Radiographer, the 2nd respondent enclosing 26 Dark Room Assistants names, requested the Government to give relaxation from possessing the qualification in Certificate in Radiological Assistant Course, considering their long experience and the services rendered by them and accepting the same, the Government also gave exemption in G.O.(D) No.1310, Health and Family Welfare Department, dated 19.10.2015 and accordingly promotion were given to those 26 Dark Room Assistants.

4. Now, the grievance of the petitioner is that in that list, the name of the petitioner did not find place, though his juniors were included and given relaxation in the above Government Order. In this regard, the petitioner made a representation to the 4th respondent and to the 3rd respondent through proper channel on 09.12.2015 and 10.12.2015 respectively. The 4th respondent has also forwarded a proposal to the 3rd respondent. But, no order has been passed on the same, the petitioner is before this Court with this Writ Petition.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate who takes notice on behalf of the respondents.

6. Considering the facts and circumstance of the matter, a positive direction as prayed for by the petitioner could not be given. However, this Court directs the petitioner to give a fresh representation along with a copy of this Order 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 and dispose of the same on merits and in accordance with law and also in the light of G.O. (D) No.1310, Health and Family Welfare Department, dated 19.10.2015, within a period of four weeks thereafter.

7. The Writ Petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai-9.
2. Director of Medical Education,
Chennai-10.
3. Director of Medical and Rural Health
Services, Chennai-6.
4. Joint Director of Health Services,
Thiruvannamalai,
Thiruvannamalai District.

1 cc to M/s.C.S. Associates, Advocate, Sr. 57422
1 cc to government Pleader, Sr. 57217

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GJ II(CO)
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