

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.11.2016
CORAM
THE HONOURABLE MR. JUSTICE R.SUBBIAH
Writ Petition No.39108 of 2016

Dr.Shanmugasundaram

... Petitioner

vs.

1.Govt.of Tamil Nadu,
rep. by its Secretary,
Health and Family Welfare
Department, Fort St.George,
Chennai-9

2.The Director of Medical Health and
Rural Services, DMS Compound,
Teynampet, Chennai-6

3.The Accountant General
Office of the Accountant General,
Teynampet, Chennai-18

4.The Joint Director of Rural Health,
Services, Erode-9.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to grant the petitioner promotion as Chief Civil Surgeon under the Person Oriented Promotion Scheme, with the pay Band of Rs.34,700-67,000 and Grade Pay of Rs.8,700/-, with effect from the date of completion of 20 years of service, that is from 5.7.2007 notionally and with all monetary and other consequential benefits from 23.10.2009, as provided in G.O.Ms.No.354, dated 23.10.2009 and G.O.Ms.No.245 dated 30.10.2013 both issued by the first respondent and sanction and pay him the revised terminal benefits, based on such promotion and the pay to be paid to the petitioner as on the date of his voluntary retirement, together with interest for the service benefits, w.e.f. 23.10.2009 and for the terminal benefits w.e.f. 1.8.2011, award costs.

For Petitioner : Mr.R.Krishnaswamy

For Respondents : Mr.K.Dhananjayan,
Spl. Govt. Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to grant promotion as Chief Civil Surgeon under the Person Oriented Promotion Scheme, with the pay Band of Rs.34,700-67,000 and Grade Pay of Rs.8,700/-, with effect from the date of completion of 20 years of service, that is from 5.7.2007 notionally and with all monetary and other consequential benefits from 23.10.2009, as provided in G.O.Ms.No.354, dated 23.10.2009 and G.O.Ms.No.245 dated 30.10.2013 both issued by the first respondent and sanction and pay him the revised terminal benefits, based on such promotion and the pay to be paid to him as on the date of his voluntary retirement, together with interest for the service benefits, w.e.f. 23.10.2009 and for the terminal benefits w.e.f. 1.8.2011 and award costs.

3. It is the case of the petitioner that he joined the Tamil Nadu Medical Service as an Assistant Surgeon on 1.7.1987 by order dated 2.8.1989 and his service was regularized in the post of Assistant Surgeon on 1.7.1987. On completion of 10 years of service, he was awarded Selection Grade with the designation of Senior Assistant Surgeon with effect from 5.7.1997. Thereafter, he passed PG Degree in 1993 and for acquiring higher qualification, he was given two incentive increments by order dated 21.5.2001. After giving one time bound promotion with effect from 5.7.1997, he was not given any further promotion either time bound or post / vacancy based. Thereafter, after completion 20 years of service and 50 years of age, the petitioner submitted an application for retirement under Voluntary Retirement Scheme, which was accepted by the first respondent by order dated 29.7.2011 and he was permitted to retire from service on and from 31.7.2011 and accordingly, he was relieved from service under VRS on 31.7.2011. Subsequently, the first respondent, by G.O.Ms.No.354 dated 23.10.2009, introduced person oriented promotions for the doctors, who were not able to get promotion for a long time and who were stagnating in the same position. Thereafter, the first respondent by another order in G.O.Ms.No.245 dated 30.10.2013, issued clarification to the order already issued. As per the said GO, the respondents gave time bound promotions to all the medical officers, who have completed 20 years of service and those medical officers were given person oriented promotions as Chief Civil Surgeons from the date of completion of 20 years with monetary benefits with effect from 23.10.2009. Hence, the petitioner sent a representation dated 17.1.2016 to the

respondents seeking promotion based on the said GO. After receipt of his representation, the fourth respondent sent proposal / recommendation to the second respondent as well as to the Accountant General, Chennai, on 24.6.2016 for revision of his pay upto the date of his retirement under VRS. But, till date, no orders have been passed. Hence, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondents.

5. 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 petitioner, this Court directs the petitioner to send a fresh representation along with a copy of this order to the second 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 second respondent is directed to consider the said representation seeking promotion as Chief Civil Surgeon under the Person Oriented Promotion Scheme, with the pay Band of Rs.34,700-67,000 and Grade Pay of Rs.8,700/-, with effect from the date of completion of 20 years of service, that is from 5.7.2007 notionally and with all monetary and other consequential benefits from 23.10.2009 and pass appropriate orders, on merits and in accordance with law and in the light of G.O.Ms.No.354, dated 23.10.2009 and G.O.Ms.No.245 dated 30.10.2013 and also based on the proposal dated 24.6.2016 sent by the fourth respondent, within a period of six weeks thereafter. The writ petition is disposed of accordingly. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

sbi

To

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

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2.The Director of Medical Health and
Rural Services, DMS Compound
Teynampet, Chennai-6

3.The Accountant General
Office of the Accountant General,
Teynampet, Chennai-18

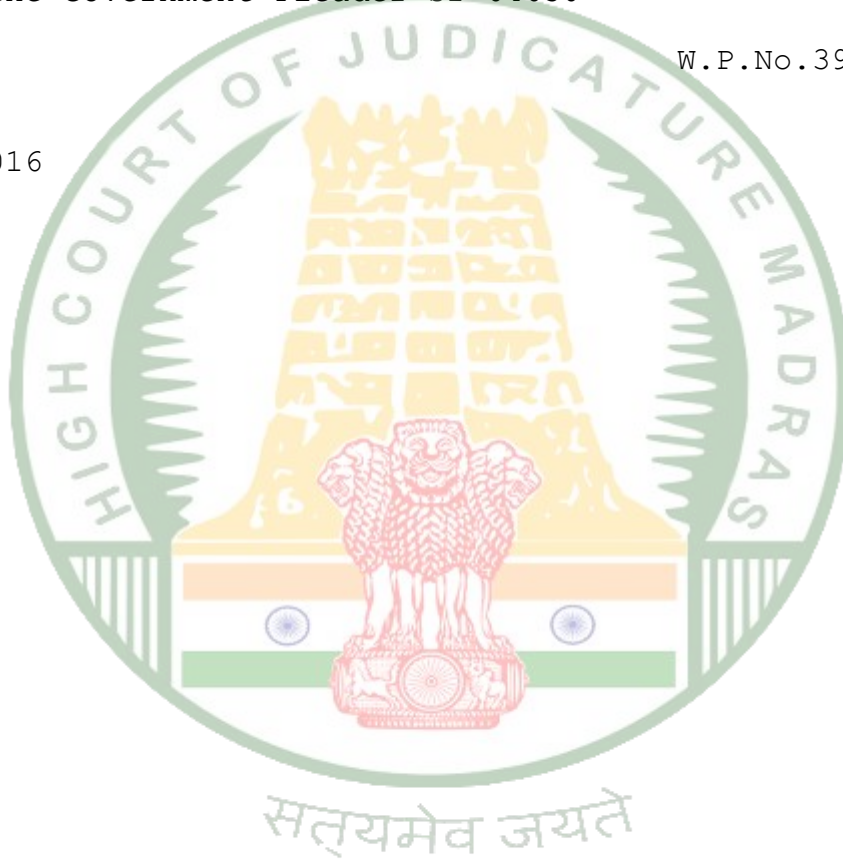
4.The Joint Director of Rural Health,
Services, Erode-9.

+1 cc to M/s.v.Ajoy khose Advocate sr 64245

+1 cc to the Government Pleader sr 64630

W.P.No.39108 of 2016

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