



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE **S.MANIKUMAR**
and
THE HONOURABLE MR.JUSTICE **C.T.SELVAM**

W.A.(MD).No.455 of 2016 &
C.M.P.(MD).No.3230 of 2016

1.The State of Tamil Nadu represented by
The Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai 600 009.

2.The Principal Secretary/Commissioner of
Indian Medicine and Homeopathy
Arumbakkam, Chennai 600 106. .. Appellants/Respondents

versus

Dr.K.Saleem .. Respondent/Petitioner

Appeal filed under Clause 15 of Letters Patent against the order,
dated 23.09.2014, made in W.P.(MD).No.3908 of 2009.

Prayer in WP(MD). 3908/ 2009 : Petition filed under Article 226 of
the Constitution of India, praying this Court to issue Writ of
Certiorarified Mandamus, to call for the records pertaining to the
impugned order of the 2nd respondent herein on 30.03.2009 in
L.Dis.No.3960/E.1/1/2009 and quash the same and direct the respondents 1
and 2 to place the petitioner assisgning seniority to the petitioner
w.e.f.17.01.1987 in the post of Assistant Medical officer (Siddha) and
grant promotion and other consequential benefits.

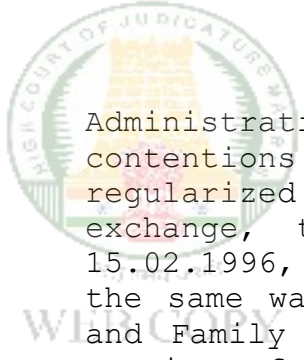
For Appellants : Mr.A.K.Baskarapandian
Special Government Pleader

For Respondent : Mr.V.Panner Selvam for Mr.A.Arun Prasad

JUDGMENT

(Judgment of the Court was made by **C.T.SELVAM ,J.)**

Respondent and several others were appointed as Assistant Medical
Officers (Siddha). They had been appointed on 17.01.1987, not in
accordance with the ad hoc rules, which would require the post of
Assistant Medical Officer (Siddha) in the Department to be filled up
through the Tamil Nadu Public Service Commission. Owing thereto, the
appellants have not regularised the appointment of the respondent as also
others. The respondent and several others moved the Tamil Nadu



Administrative Tribunal in O.A.Nos.573/1995, etc., batch. Accepting the contentions of the respondent and others that their services should be regularized from the date of their appointment through employment exchange, the Tamil Nadu Administrative Tribunal, vide order dated 15.02.1996, directed regularization of service. Accepting such orders, the same was given effect to by the Government in G.O.Ms.No.442, Health and Family Welfare Department, dated 12.09.1997. As a consequence, the service of the respondent and others was regularised from the date of their initial appointment. The respondents service stood regularized with effect from 01.07.1987. Subsequent selection process was conducted through Tamil Nadu Public Service Commission and the candidates selected in the year 1994-1995 were regularised under G.O.Ms.No.9, Health and Family Welfare Department, dated 06.01.1998. The question of inter se seniority between respondent and others similarly placed and those recruited through the Tamil Public Service Commission arose and the appellant by proceedings in L.Dis.No.3960/E.1/1/2009, dated 30.03.2009 directed that the names of the Assistant Medical officer regularised under G.O.Ms.No.442, Health and Family Welfare Department, dated 12.09.1997, i.e. those relating to the respondent and others similarly placed, shall be placed after the last name regularised in G.O.Ms.No.9 Health and Family Welfare Department, dated 06.01.1998. The reason assigned was that those recruited under G.O.Ms.No.9 Health and Family Welfare Department, dated 06.01.1998, pertained to the year 1994-1995 and the same was before the date of issuance of G.O.Ms.No.442, Health and Family Welfare Department, dated 12.09.1997, whereunder the services of the respondent and those similarly placed were regularised. Aggrieved, the respondent, having made a representation, moved W.P.(MD).No.3908 of 2009 seeking a writ of Certiorarified Mandamus, to call for the records pertaining to the order of the 2nd respondent in L.Dis.No.3960/E.1/1/209, dated 30.03.2009 and quash the same and direct the respondents 1 and 2 therein to place his seniority as on 17.01.1987 in the post of Assistant Medical Officer (Siddha) and grant promotion and other consequential benefits.

2. By order, dated 23.09.2014, the said writ petition was allowed as prayed for. In doing so, learned single Judge had found that once the service of the respondent and other similarly placed stood regularised from the date of their initial appointment, in the case of the respondent herein on 17.01.1987, then seniority would have to be reckoned therefrom. On such consideration, those appointed by proper selection process through Tamil Nadu Public Service Commission, and regularised subsequently cannot have any precedent or seniority over the respondent and others similarly placed.

3. We have considered the contention of the learned Special Government Pleader that when two separate lists regarding those appointed through Tamil Nadu Public Service Commission and the second respondent and others similarly placed who had been directly absorbed through employment exchange was prepared, the respondent has not challenged the same. It is seen that even in preparing the two lists, Government had informed that *inter se* seniority would be fixed later. Immediately upon the respondent finding the same to be to his disadvantage, he has sent a representation, and subsequently, moved the writ petition.



4. We find no error or illegality in the impugned order. The writ appeal is liable to be dismissed and accordingly, it is dismissed. No costs. Connected miscellaneous petition is also dismissed.

WEB COPY

/True copy/

Sd/-

Assistant Registrar (P&A)

Sub Assistant Registrar

To

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai 600 009.
2. The Principal Secretary/Commissioner of
Indian Medicine and Homeopathy
Arumbakkam, Chennai 600 106.

+1 CC to Mr.A.ARUNPRASAD, Advocate, SR No.17083

+1 CC to the Special Government Pleader, SR No.17014

W.A. (MD) .No.455 of 2016
23.03.2016

jikr

SH/SKS-RR:07.04.2016:3P/5C