

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 6.6.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.Nos.561, 562, 579, 580 of 2017,
1512 to 1514 of 2016,
C.M.P.Nos.7986 to 7990, 8192 to 8196 of 2017,
18718 to to 18725 of 2016

1. State of Tamil Nadu,
rep. by its Secretary,
Department of Public Health and
Family Welfare,
Fort St. George, Chennai 600 009.

2. The Director of Public Health &
Preventive Medicine,
D.M.S.Compound, Teynampet,
Chennai 600 018.

... Appellants in all the
Writ Petitions/Respondents

Vs.

Sujith N.V. Respondent in W.A.561 of 2017
/Petitioner
Boby Jesel C.E. Respondent in W.A.562 of 2017
/Petitioner
Binu Kumar Respondent in W.A.579 of 2017
/Petitioner
Santhosskumar Respondent in W.A.580 of 2017
/Petitioner
K.S.Krishnakumar Respondent in W.A.1512 of 2016
/Petitioner
Gireeshkumar Respondent in W.A.1513 of 2016
/Petitioner
Nithiyanantha Sundari Respondent in W.A.1514 of 2016
/Petitioner

Prayer: Writ Appeals 561 and 562 filed under Clause 15 of the Letters Patent against the common order dated 15.4.2016 passed in W.P.Nos.10858 of 2016 and 38040 of 2015 on the file of this court, to issue a Writ of Mandamus, directing the Respondents to appoint the Petitioners to the post of Health Inspector, Grade II.

Writ Appeals 579 and 580 filed under Clause 15 of the Letters Patent against the common order dated 2.2.2016 passed in

W.P.Nos.3492 and 3493 of 2016 on the file of this court, to issue a Writ of Mandamus, directing the Respondents to appoint the Petitioners to the post of Health Inspector, Grade II.

Writ Appeals 1512 to 1514 of 2016 filed under Clause 15 of the Letters Patent against the common order dated 2.3.2016 passed in W.P.Nos.7616 to 7618 of 2016 on the file of this court, to issue a Writ of Mandamus, directing the Respondents to appoint the Petitioners to the post of Health Inspector, Grade II.

For appellants in : Mr.K.Venkataramani,
all writ appeals Additional Advocate General
assisted by
Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

For respondent in : Ms.R.Vaigai,
all writ appeals Senior Counsel for
Mr.S.Sakthivel

COMMON JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Additional Advocate General for the appellants and Ms.R.Vaigai, learned Senior Counsel appearing for the respondents/writ petitioners for some time.

2. The writ appeals are filed challenging the orders passed by the learned Single Judge directing the appellants to appoint the respondents/writ petitioners as Health Inspectors Grade-II in the light of G.O.Ms.No.305 dated 22.9.2009.

3. It appears that the learned single Judge, having found that similarly placed persons were considered for the post of Health Inspector Grade-II in the light of the abovesaid G.O., has given a positive direction to the appellants herein to consider the cases of the present writ petitioners also.

4. The learned Additional Advocate General would mainly contend that the Government had given one time relaxation only during the year 2009 and the same concession could not be extended as the selection process and nomenclature of the post have already been modified as per G.O.Ms.No.232, Health and Family Welfare (L1) Department dated 17.10.2013.

5. It appears that already a writ appeal in W.A.No.437 of 2017 filed by the State Government, on the same issue, has been dismissed by order dated 20.4.2017. The petitioners are found to be similarly placed in respect of qualification and experience and hence, they were also directed to be considered for the post according to their seniority and experience.

Therefore, the submission of the learned Additional Advocate General that only as one time measure, the relaxation was granted by the Government and it cannot be extended to the present petitioners as the selection process and nomenclature of the post have already been modified as per G.O.Ms.No.232, Health and Family Welfare (L1) Department dated 17.10.2013, cannot be countenanced and it does not merit consideration, de hors the amendment with regard to qualification, nomenclature, etc.

6. When the similarly placed persons were directed to be considered for the post of Grade-II Health Inspector, the legitimate right of the writ petitioners to claim appointment on par with similarly placed persons cannot be denied on some factual discrimination and we cannot, at this stage, take a different view in respect of the present writ petitioners. Further, this court is appraised of the fact that when the amendment with regard to qualification and nomenclature was introduced in the year 2013, it was further amended on 5.2.2016. Therefore, in our view, the order of the learned Single Judge needs no interference. However, it is made clear that persons, who apply, in future, for the said post, the amendment introduced would be binding with regard to qualification as well as nomenclature of the post. Therefore, it is needless to say that for future appointments, the candidates must possess qualification as indicated in the G.O. which introduces the amendment.

7. The writ appeals are disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssk
To

1. The Secretary to Government,
Department of Public Health and Family Welfare,
Fort St. George, Chennai 600 009.
2. The Director of Public Health & Preventive Medicine,
D.M.S.Compound, Teynampet,
Chennai 600 018.

+7cc's to Mr.S.Sakthivel, Advocate, S.R.Nos.40353 to 40355
+1cc to the Government Pleader, S.R.No.40316

W.A.Nos.561, 562, 579, 580 of 2017
1512 to 1514 of 2016

GJ II(CO)
CA(23/06/2017)

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