

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20923 of 2011

M.U.P.Vino

.. Petitioner

vs

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

2) The Director of Public Health & Preventive,
Medicine, Chennai 600 006.

3) M.Padmanabhan

4) Ragu

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondents 1 and 2 not to promote Health Inspectors Grade I B (Erstwhile Leprosy Inspectors) to the post of Block Health Supervisor as the orders in W.P.No.17578 of 2008 and a batch of cases dated 23.07.2010 were obtained by suppression of material facts and also to consider the case of the petitioner for promotion to the post of Block Health Supervisor with all service and monetary benefits.

For Petitioner : Mr.S.Selvathirumurugan

For RR 1 & 2 : Mr.R.Vijayakumar,
Additional Government Pleader.

For RR3 & 4 : No appearance.

O R D E R

The relief sought for in this writ petition is seeking to forbear the respondents 1 and 2 not to promote Health Inspectors Grade I B (Erstwhile Leprosy Inspectors) to the post of Block

Health Supervisor as the orders in W.P.No.17578 of 2008 and a batch of cases dated 23.07.2010 were obtained by suppression of material facts and also to consider the case of the petitioner for promotion to the post of Block Health Supervisor with all service and monetary benefits.

2. The learned counsel appearing for the writ petitioner brought to the notice of the Court that, the same issue was adjudicated and decided by the Hon'ble Supreme Court of India in the case of S.Sivaguru vs State of Tamil Nadu and others. Paragraph 58 of the Apex Court judgment is extracted here under for the sake of convenience:

"58. At this stage, we may summarise the conclusions recorded by us in the following manner:

i. The integration of Leprosy Inspectors into the Department of Health and Preventive Medicine by G.O.Ms.No.320 dated 27th June, 1997 was complete in all respects.

ii. The aforesaid G.O.Ms.No.320 dated 27th June, 1997 did not bring about an amendment in the Statutory Services Rules contained in G.O.Ms.No.1507 dated 16th August 1989. The G.O.Ms. was supplementary to the aforesaid Rules and did not supplant the same.

iii. There was no relaxation in the educational qualification for the integration / re-designation of Leprosy Inspectors as Multi Purpose Health Supervisors as the post of Leprosy Inspector was equated with the post of Multi Purpose Health Supervisor. The qualifications prescribed for appointment on the post of Multi Purpose Health Assistants re-designated as Health Inspector Grade II were not applicable for the post of Multi Purpose Health Supervisor.

iv. Since, there was a complete integration of the posts of Leprosy Inspector and Multi Purpose Health Supervisor by virtue of G.O.Ms.No.320 dated 27th June 1997; both categories were entitled to the same treatment. Therefore, Leprosy Inspectors re-designated as Health Inspector Grade I B were entitled to the pay scale of Rs.1350-2000 w.e.f. 1st August, 1997 and the pay scale of Rs.4500-7000 w.e.f. the same were given to the Health Inspector Grade I A , with all consequential benefits.

v. Upon integration vide G.O.Ms.No.320 dated 27th June 1997, Multi Purpose Health Supervisor and Leprosy

Inspectors were to be re-designated as Health Inspector Grade I. The birth mark of the Leprosy Inspector got obliterated with the integration. There could be no further distinction in the cadre of Health Inspector Grade I. There could be no such division as Health Inspector Grade I A and Health Inspector Grade I B.

vi. Since Paragraph 6(iv) and 6(v) of G.O.Ms.No.382 dated 12th October 2007 was in violation of Articles 14 and 16 of the Constitution of India, they have been correctly struck down by the High Court.

vii. The denial of seniority to the re-designated Health Inspectors Grade I B i.e., erstwhile Leprosy Inspectors on the post of Health Inspector Grade I w.e.f., 1st August, 1997 to 12th October, 2007 violated Articles 14 and 16 of the Constitution of India. The Division Bench of the High Court has correctly concluded that the integrated Leprosy Inspectors, re-designated as Health Inspector Grade I B are to be re-designated as Health Inspector Grade I and to be given seniority as well as consequential reliefs such as seniority and further promotions.

viii. The provision contained in Clause 6(v) of G.O.Ms.No.382 dated 12th October 2007 denying promotion of the re-designated Health Inspector Grade I to the post of Block Health Supervisor and Technical Personal Assistant till the last person in the existing list of Health Inspector Grade I gets promotion as Block Health Supervisor and Technical personal Assistant, has been rightly held by the High Court to be violative of Article 14 and 16 of the Constitution of India.

ix. The continuance of the existing promotion channels as Non-medical Supervisor and Health Educator to the re-designated Health Inspector Grade I (erstwhile Leprosy Inspectors) did not amount to bestowing a double benefit upon this category. Therefore, the High Court did not enforce negative equality. The High Court has correctly observed that upon integration and merger into one cadre, the preexisting length of service of the Leprosy Inspectors re-designated as Health Inspector Grade IB had to be protected as it can not be obliterated, Therefore, the Leprosy Inspectors have been correctly placed at the bottom of the seniority list of the already existing Health Inspectors Grade I w.e.f. 27th June, 1997. Therefore, it can not be said that benefit Grade I with retrospective effect. "

In view of the judgment of the Hon'ble Apex Court of India

cited supra, no further consideration or adjudication is required in this writ petition. Accordingly, the Writ Petition stands dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CS IV)

//True copy//

Sub Assistant Registrar

sts/ msrm

To

1. The Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Fort St. George,
Chennai 600 009.
- 2) The Director of Public Health & Preventive,
Medicine,
Chennai 600 006.

+1cc to Mr.S.Selvathirumurugan, Advocate SR.No.87840
+1cc to Government Pleader SR.No.88521

W.P.No.20923 of 2011

AD (CO)
GN (28/12/2017)

सत्यमेव जयते
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