

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-12-2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24191 of 2013

D.Chinnadurai

.. Petitioner

-vs-

- 1.The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai-600 009.
 - 2.The Director,
Public Health and Prevention of Communicable
Diseases,
DMS Campus,
Anna Salai,
Chennai-600 006.
 - 3.The Deputy Director,
Health Department,
Sathuvachari, Vellore-9.
 - 4.The Medical Officer,
Government Primary Health Centre,
Anaicut, Vellore Taluk,
Vellore District.
 - 5.The Block Development Officer,
Anaicut,
Vellore District.
- .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents to regularise the petitioner's service on permanent basis and consequently direct the respondents to sanction the arrears of salary in the revised scale payable to the petitioner.

For Petitioner

- Mr.M.Rajendiran

For Respondents

- Mr.K.Thangapandi,
Government Advocate.

ORDER

The relief sought for in this writ petition is for a direction to direct the respondents to regularise the services of the writ petitioner in the permanent post and direct the respondents to sanction the arrears of salary in the revised scale of pay.

2. The learned counsel, appearing on behalf of the writ petitioner, states that the writ petitioner was initially appointed as Cholera Mazdoor on 24.12.1992 in the Primary Health Centre at Odugathur on daily wage basis. The petitioner states that he was initially appointed through the District Employment Exchange and continuously working under the respondent for about 20 years. However, the monthly salary of Rs.1,500/- was paid to the writ petitioner. Thus, he is constrained to move this writ petition for regularisation of his services.

3. The learned counsel appearing on behalf of the writ petitioner further states that even the Government issued G.O.Ms.No.385 on 1.10.2010, fixing the time scale of pay in respect of the temporary employees. The benefit of time scale of pay as ordered by the Government for temporary employees also has not been paid to the writ petitioner.

4. In respect of regularisation of services of the writ petitioner, this Court is not inclined to consider the relief sought for in this writ petition in view of the legal principles settled by the Constitutional Bench of the Hon'ble Supreme Court of India in the case of STATE OF KARNATAKA AND ORS. v. UMA DEVI (3) & ORS. [(2006) 4 SCC 1],

5. This apart, the High Court cannot issue regularisation or permanent absorption in respect of the appointments made contrary to the recruitment rules in force. However, in the case on hand, the learned counsel for the writ petitioner brought to the notice of this Court that the Government issued G.O.Ms.No.385 dated 1.10.2010. As per the said Government Order, the writ petitioner is eligible to get the time scale of pay.

6. Thus, this Court is of the opinion that the writ petitioner is not entitled for the regularisation or permanent absorption of his services. However, his claim for time scale of pay as per the said Government Order in G.O.Ms.No.385, dated 1.10.2010, is to be considered by the respondents.

7. Accordingly, the writ petitioner is at liberty to submit his representation to the respondents in this regard,

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 the representation submitted by the writ petitioner, on merits and in accordance with law, as early as possible, preferably within a period of 12 weeks thereafter.

8. Accordingly, the writ petition stands disposed of., the writ petition stands disposed of.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

Svn

To

- 1.The Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai-600 009.
- 2.The Director,
Public Health and Prevention of Communicable Diseases,
DMS Campus, Anna Salai,
Chennai-600 006.
- 3.The Deputy Director,
Health Department,
Sathuvachari, Vellore-9.
- 4.The Medical Officer, सतयमेव जयते
Government Primary Health Centre,
Anaicut, Vellore Taluk,
Vellore District.
- 5.The Block Development Officer,
Anaicut, Vellore District.

+1cc to Mr.M.Rajendran, Advocate SR.No.87820

WP 24191 of 2013

GN(22/12/2017)