

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P.No.17309/2012 & MP.No.2/2012

- 1.A.Ramakrishna
- 2.R.Tharabai
- 3.L.Kosalakumara
- 4.R.Gandhammal
- 5.K.Radha
- 6.M.Sundaravelu
- 7.K.Chinniah
- 8.N.Nageshwaran
- 9.M.Kanniappan
- 10.S.Yuvaraj
- 11.B.Varalakshmi

.. Petitioners

Vs.

- 1.The Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai - 9.
2. Director of Medical Education,
Kilpauk, Chennai - 600 010.
3. Dean,
Government Stanley Hospital,
Chennai 600 001.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 1st Respondent in G.O.Ms.No.9, Health & Family Welfare Department, dated 05.01.2007, in so far as it gives effect from the date of issue of the order is concerned, and the Government Letter No.2630/F-2/2011-6, Health & Family Welfare Department dated 02.01.2012 and the consequential order passed by the 3rd respondent in his proceedings Pa.Mu.No.2685/N1.2/2009 dated 07.02.2012. and quash the same, and direct the Respondents to regularize the Services of the petitioners retrospectively on completion of 10 years of Service as per the orders passed by the Govt. and confer all the consequential benefits to the

petitioners.

For Petitioners : Mr.P.Ganesan
For Respondents : Mr.A.Kumar, Spl. GP

ORDER

By consent, the Writ Petition is taken up for final disposal.

2 The petitioners who claim that all of them were appointed through the Employment Exchange initially as Substitute Workers in the year 1988 in the services of the 3rd respondent / Hospital and since they have put in long years of hard and sincere service, their Association made a request to the Government praying for their regularisation and it was sympathetically considered by the Hon'ble Chief Minister who has also made announcement and based on which, the 1st respondent has issued G.O.Ms.No.300 dated 21.08.2000, directing regularisation of the Substitute Workers on completion of ten years of service. Accordingly, the services of the Destitute Widows among the Substitute Workers were regularised in terms of the said Government Order.

3 The petitioners had approached the Tamil Nadu Administrative Tribunal by filing OA.Nos.1733 and 2183/2003, alleging that since they are similarly placed like that of the Destitute Widows whose services were regularised in terms of the above said Government Order, their services should also have been regularised with effect from the date of the Government Order and the Tamil Nadu Administrative Tribunal, vide orders dated 29.04.2003 and 27.06.2003 respectively, had disposed of both the Original Applications, directing the 1st respondent herein to consider their request in the light of the above cited Government Order and pass appropriate orders within a period of eight weeks from the date of receipt of copies of the said orders. Accordingly, the 1st respondent issued G.O.Ms.No.09 dated 05.01.2007, regularising the services of the petitioners and others.

4 The learned counsel for the petitioners would submit that since the petitioners are similarly placed like that of the destitute widows whose services were regularised in terms of G.O.Ms.No.300 of the 1st respondent dated 21.08.2000, in stead of regularising their services from 05.01.2007, they should have been regularised with effect from 21.08.2000 - the date of G.O.Ms.No.300 and the request made by them in that regard, was rejected by the 1st respondent vide impugned communication dated 02.01.2012 and would further add that the said order is per se

violation of Article 14 of the Constitution of India for the reason that persons similarly placed, are to be treated similarly and prays for interference.

5 Per contra, Mr.A.Kumar, learned Special Government Pleader has drawn the attention of this Court to the counter affidavit of the respondents 1 and 2 and would submit that the 1st respondent has sympathetically considered the plight of the destitute widows and therefore, a fair decision has been taken to regularise their services and accordingly, passed G.O.Ms.No.300 dated 21.08.2000 and since the reason has been assigned based on a reasonable classification, the petitioners, as a matter of right, cannot claim equality with that of the destitute widows, who have been accommodated in G.O.Ms.No.300 dated 21.08.2000 and prays for dismissal of the writ petition.

6 This Court has carefully considered the rival submissions and also perused the materials placed before it in the form of typed set of documents.

7 As rightly contended by the learned Special Government Pleader appearing for the official respondents, the Government took a sympathetic consideration and adopted a fair procedure in accommodating the destitute widows among the substitute workers and therefore, had passed G.O.Ms.No.300 dated 21.08.2000. In the considered opinion of this Court, a fair and intelligible criteria has been adopted and it also amounts to a reasonable classification and therefore, accommodation of the destitute widows by giving preference for regularisation of their services cannot be faulted with.

8 It is also to be pointed out at this juncture that praying for a fair play and equality, the petitioners had approached the Tamil Nadu Administrative Tribunal by filing OA.Nos.1733 and 2163/2003 and both the Original Applications were disposed of on 29.04.2003 and 27.06.2003 respectively, directing the 1st respondent as well as the 3rd respondent to consider their request in the light of G.O.Ms.No.300 dated 21.08.2000. The fact remains that the Government Order regularising the services of the petitioners came to be passed only on 05.01.2007 in G.O.Ms.No.09 and in the considered opinion of the Court, their request for regularisation should have been considered at least from the expiry of the time fixed by the Tamil Nadu Administrative Tribunal for disposal of their representation.

9 This Court is also of the view that the impugned communication does not warrant interference and it would be suffice to direct the respondents 1 to 3 to consider the request of the petitioners for regularisation from the date of expiry of the time limit fixed by the Tamil Nadu Administrative Tribunal in the above said orders.

10 In the result, the writ petition is disposed of and the respondents 1 to 3 are directed to consider the request of the petitioners for regularisation of their services from the date of expiry of the time limit fixed by the Tamil Nadu Administrative Tribunal vide orders dated 29.04.2003 and 27.06.2003 respectively in OA.Nos.1733 and 2163/2003 and pass orders within a period of three months from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP
To

1.The Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai - 9.

2. Director of Medical Education,
Kilpauk, Chennai - 600 010.

3. Dean,
Government Stanley Hospital,
Chennai 600 001.

+1cc to Mr.C.S. Associates, Advocate, S.R.No.24119
+1cc to the Government Pleader, S.R.No.24343

pa(CO)
md(28/04/2017)

WP.No.17309/2012