

In the High Court of Judicature at Madras

Dated : 28.08.2017

Coram :

The Honourable Mr.Justice S.M.SUBRAMANIAM

W.P.Nos.4750 to 4775 of 2016

W.P.No.4750 of 2016

S.Nagarathinam	...Petitioner in W.P.4750/16
S. Umar	...Petitioner in W.P.4751/16
K. Palanisamy	...Petitioner in W.P.4752/16
S. Paulraj	...Petitioner in W.P.4753/16
S. Ramu	...Petitioner in W.P.4754/16
B. srinivasaperumal	...Petitioner in W.P.4755/16
G. Dhakshinamoorthy	...Petitioner in W.P.4756/16
R. Ramasamy	...Petitioner in W.P.4757/16
M. Subramanian	...Petitioner in W.P.4758/16
M. Yakub Ali	...Petitioner in W.P.4759/16
G. Shymala	...Petitioner in W.P.4760/16
T. Rajendran	...Petitioner in W.P.4761/16
K. Periasamy	...Petitioner in W.P.4762/16
O. Muthu Vijayan	...Petitioner in W.P.4763/16
C. Thiagarajan	...Petitioner in W.P.4764/16
K. Thangavelu	...Petitioner in W.P.4765/16
A.K. Pandi	...Petitioner in W.P.4766/16
S. Ramachandran	...Petitioner in W.P.4767/16
A. Shanmugavel	...Petitioner in W.P.4768/16
V. Venkataraman	...Petitioner in W.P.4769/16
P. Karuppiah	...Petitioner in W.P.4770/16
U. Ramaiah	...Petitioner in W.P.4771/16
G. Sundaram	...Petitioner in W.P.4772/16
A. Karuppiah	...Petitioner in W.P.4773/16
A. Krishnan	...Petitioner in W.P.4774/16
P. Sivasubramanian	...Petitioner in W.P.4775/16

Vs

1. The State of Tamil Nadu, rep by its
The Director of Public Health and Preventive Medicine,
D.M.S. Compound, Chennai - 600 006.
2. The State of Tamil Nadu,
rep by its Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai - 600 009.

...Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of Writs of Mandamus directing the respondents to regularize the petitioner service in the cadre of Health Inspector with effect from the date of completion of Sanitary Inspector Course with all consequential monetary and other benefits as covered and directed under order in W.P.No.29794 of 2005 batch dated 13.07.2007 which was confirmed by Hon'ble Supreme Court of India in Civil Appeal No.6660 of 2011 batch dated 25.02.2015.

For Petitioners : Mr.R.Shivakumar for
M/s.K.M.Vijayan Associates

For Respondents : Mr.K.Dhananjayan,
Special Government Pleader.

C O M M O N O R D E R

The common relief sought for in all these batch of writ petitions is for a direction to direct the respondents to regularise the service of the petitioners in the cadre of Health Inspector with effect from the date of completion of their respective Sanitary Inspector Course with all service and other consequential benefits.

2. The learned counsel appearing for the writ petitioners states that all the writ petitioners were initially appointed as Health Workers in the department of Public Health and they have completed their respective Sanitary Inspector Course and made themselves eligible to become a regular employee of the Public Health Department. However, there is a delay in grant of regularisation of service to the writ petitioners by the Department and the same is not a fault of the writ petitioners and it was an administrative delay on the part of the department in passing orders of regularisation.

3. In this regard, a batch of writ petitions were filed before this Court and the Hon'ble Division Bench passed final orders dated 13.7.2007 in writ petition Nos.29794 of 2005 etc. batch, wherein, in paragraph Nos.9 to 12, the Hon'ble Division Bench has held as follows:-

9. Though at the time of their initial appointment the petitioner had not possessed the prescribed qualification, viz., Sanitary Inspector Course Certificate, the Government has chosen to appoint them in the Health Services, when they have gained the qualification subsequent to the appointment, they were not considered for promotion. On the other hand, the Government should have

considered them for promotion instead of ignoring their legal claim to regularise their services and promotion as Health Inspector to avoid stagnated promotion to create unrest among the employees by virtue of not considering the cases of the petitioners and implementing the orders of its own and the Tribunal. Further, while passing the order on 05.03.1996, the Government directed the Medical Officers of the Primary Health Centres in all the Districts to regularise their services from the date of their first appointment, but they have taken a different stand in the counter affidavit depriving the right of the petitioners by not regularising their services from the date of acquiring qualification for promotion, which is arbitrary and violative of Articles 14 and 16 of the Constitution of India.

10. In the light of the above, the respondents are directed to consider the case of the petitioners with regard to regularisation of their services with retrospective effect and thereafter, giving promotion as per the seniority list prepared by the Government by virtue of proceedings dated 05.03.1996 and the order of Tribunal dated 10.08.2001 and also the consequential G.O.(D) No.359 Health and Family Welfare (N2) Department dated 26.4.2004, within a period of 12 weeks from the date of receipt of a copy of this order.
11. It is brought to our notice that some of the writ petitioners have retired from service after attaining the age of superannuation. If that is so, they are entitled for regularisation from the date they have acquired qualification and consequential monetary benefits and the respondents are directed to pay the same to them within the stipulated period.
12. The writ petitions are ordered with the above directions. No Costs.

4. Challenging the same, the State preferred a Civil Appeal in Civil Appeal No.6660 of 2011 and the Hon'ble Supreme Court of India confirmed the orders passed by the Hon'ble Division Bench of this Court by Judgment dated 25.02.2015 as follows:-

10. We have heard learned counsels for the parties to the lis and have carefully perused the records of the case. We find no infirmity in the order(s) passed by the High

Court.

11. Therefore, in our considered opinion, we do not see any good ground to interfere with the judgment and order passed by the High Court. Accordingly, the civil appeals are dismissed.

Ordered accordingly.

Based on these judgments, the writ petitioners submitted their respective representations to the respondents in May 2015 and no orders has been passed for the past about two years.

5. In view of the above, the respondents are directed to consider the representation submitted by the writ petitioners in May 2015 and pass orders on merits and in accordance with law within a period of 12 weeks from the date of receipt of copy of this order. Accordingly, the writ petitions are disposed of, However, no order as to costs.

s/d-

Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The State of Tamil Nadu, rep by its
The Director of Public Health and Preventive Medicine,
D.M.S. Compound, Chennai - 600 006.
2. The State of Tamil Nadu,
rep by its Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai - 600 009.

+1 Cc to Ms. K.M. Vijayan Associates sr 61787.

+1 Cc to Govt. Pleader sr 62595

W.P. Nos.4750 of 2016 etc., and batch

RV(CO)
sp(27/09/2017)