



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Petition (MD) No.1035 of 2017

R.N.Kamatchi

... Petitioner

Vs.

1. The Director of  
Medical and Rural Health Services (ESI), Chennai-6.
2. The Assistant Director of  
Medical and Rural Health Services (ESI), Chennai-6.
3. The Regional Administrative Medical Officer (ESI),  
O/o.The Regional Administrative Medical  
Officer (ESI), Madurai-20.
4. The Pay and Accounts Officer,  
Rural Health Department,  
Madurai-20.

... Respondents

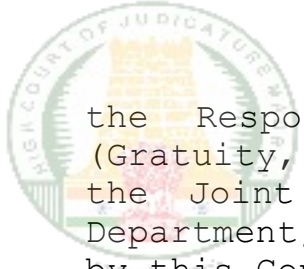
**Prayer:** Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings in Na.Ka.No.1098/Tho.Aa.E/N/1/2/2016, dated 29.08.2016 and quash the same as illegal, arbitrary, violation of law and further direct the Respondents to fix the salary and retirement benefits (Gratuity, Pension, etc.) on the basis of the circular issued by the Joint Secretary to Government, Health and Family Welfare Department, Chennai-09, on 20.12.2001, within the stipulated period which this Court may deem fit and proper.

For Petitioner : Mr.M.Jothi Basu  
For Respondents : Mr.N.S.Karthikeyan,  
Additional Government Pleader.

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**ORDER**

This Writ petition has been filed by the petitioner for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings in Na.Ka.No.1098/Tho.Aa.E/N/1/2/2016, dated 29.08.2016 and quash the same as illegal, arbitrary, violation of law and further direct



the Respondents to fix the salary and retirement benefits (Gratuity, Pension, etc.) on the basis of the circular issued by the Joint Secretary to Government, Health and Family Welfare Department, Chennai-09 on 20.12.2001, within the time stipulated by this Court.

*2.The brief facts that are necessary for the purpose of disposal of this Writ Petition are as follows:-*

The petitioner, who is a Diploma holder in Pharmacy was originally appointed as Pharmacist in Rural Health Department on 25.02.1968. Even when he was holding the post as Pharmacist, he was sanctioned Selection Grade and Special Grade in the year 1990 with effect from 24.02.1988. In the year 2000, the petitioner was promoted as Chief Pharmacist and again on 13.01.2005, he was promoted as a Medical Store Officer. After attaining the age of superannuation on 31.01.2006, the petitioner retired from service. The petitioner's claim is that a person appointed as a Medical Store Officer from the post of Chief Pharmacist is entitled to get Selection Grade and that he relied upon the proceedings of the Secretary, Health and Family Welfare, dated 20.12.2001. Based on the guidelines, the petitioner submitted her representation, dated 14.07.2016, claiming increment. However his representation was turned down by the impugned order of the first respondent, dated 29.08.2016.

3.The impugned order passed by the first respondent refers to and on the basis of the Government letter dated 09.06.2011. The petitioner in this case, retired from service in the year 2006. However, he made a representation only in the year 2016. What is relevant in this case is that the representation of the petitioner was considered only on the basis of the Government Letter, dated 09.06.2011, which may not have any application in the case of the petitioner who retired in the year 2006, if he is entitled to the benefit of the earlier order of the Government. The impugned order does not contain any reason why the Government letter, dated 09.06.2011 should be followed in the case of the petitioner who retired in 2006. Even in the petitioner's representations, the contention of the petitioner, was on the basis of the Government Letter, dated 20.12.2001. However, the eligibility of the petitioner and his rights as flow under the proceedings dated 20.12.2001 was not considered. In such circumstances, this Court is inclined to dispose of the above Writ petition in the following lines:-

*"The impugned order passed by the first respondent / Director of Medical and Rural Health Services (ESI), Chennai in proceedings No.1098/Tho.Aa.E/N/1/2/2016, dated 29.08.2016 is set aside. The first respondent is directed to pass fresh orders on the*



representation of the petitioner, dated 14.07.2016, in accordance with law and on merits, taking into account the various Government orders, after giving an opportunity to the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

4. With the above observations, the Writ Petition is disposed of. No Costs.

Sd/-  
Assistant Registrar (Record)

/True Copy/

Sub Assistant Registrar

To

1. The Director of Medical and Rural Health Services (ESI), Chennai-6.
2. The Assistant Director of Medical and Rural Health Service (ESI), Chennai-6.
3. The Regional Administrative Medical Officer (ESI),  
O/o. The Regional Administrative Medical Officer (ESI), Madurai-20.
4. The Pay and Accounts Officer, Rural Health Department,  
Madurai-20.

+1cc to Spl. Government Pleader Sr.No.15569  
+1cc to Mr.G.Marimuthu, Advocate Sr.No.15431

pmu

vb/rsk/17.05.2017/3p/7c

ORDER MADE IN  
Writ Petition (MD) No.1035 of 2017  
16.03.2017