

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.09.2014

CORAM

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

W.P.No.106 of 2013

Dr.K.Mohan

.. Petitioner

.Vs.

1. The Principal Secretary to Govt.,
Head & Family Welfare Department,
Fort St., George,
Cehnnai-600 009.

2. The Director,
Medical and Rural Health Services,
Chennai-600 009.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents 1 & 2 to include the petitioner's name in the list of approved Medical Officers as per his seniority rank No.7667 in the CML Seniority assigned in the year 2005 and consequently promote the Petitioner to the post of Senior Civil Surgeon with retrospective effect and with all attendant benefits.

For Petitioner : Mr.M.Santhanamari
for Mr.E.J.Ayyappan

For Respondents : Mrs.A.Shri Jayanthi
Spl. Government Pleader

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondents 1 & 2 to include the petitioner's name in the list of approved Medical Officers as per his seniority rank No.7667 in the CML Seniority assigned in the year 2005, and consequently promote the writ Petitioner to the post of Senior Civil Surgeon with retrospective effect and with all attendant benefits.

2.The grievances of the writ petitioner is that he is fully qualified for the promotion to the post of Senior Civil Surgeon. However, his name was not included in the Panel of Medical Officers fit for promotion to the post of Senior Civil Surgeon in the year 2005. Thus, the petitioner is constrained to move the present writ petition for promotion.

3.The learned Special Government Pleader informed this Court that during the relevant period when the Panel was prepared, the writ petitioner was facing the punishment. In other words, the name of the writ petitioner was deferred on account of the currency of punishment with reference to the Panel of the year 2005. However, the currency cended

on 31.12.2012. After the currency, the case of the writ petitioner was considered for promotion to the post of Senior Civil Surgeon.

4.This Court is of an opinion that the Government employee facing an order of punishment is not entitled for promotion and only after the expiry of currency, his case shall be considered for promotion. Otherwise, if the order of punishment is set aside in an Appeal or quashed by the Court of law then the writ petitioner is eligible for retrospective promotion on par with his junior with all benefits. In the present case, the order of punishment is not challenged by the writ petitioner. Thus, during the relevant point of time, the currency of punishment was in force, and thus, there was no infirmity in respect of the rejection of the claim of the petitioner for inclusion of his name for the post of Medical Officers fit for promotion to the post of Senior Civil Surgeon. This being the principles to be followed. The case of the writ petitioner shall be considered after the period of currency is over, and as per the rules in force. It is needless to state that the writ petitioner should be qualified, and eligible as rules in force.

5.With these observations, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar((CS-V)

// True Copy//

Sub Assistant Registrar

KP

To

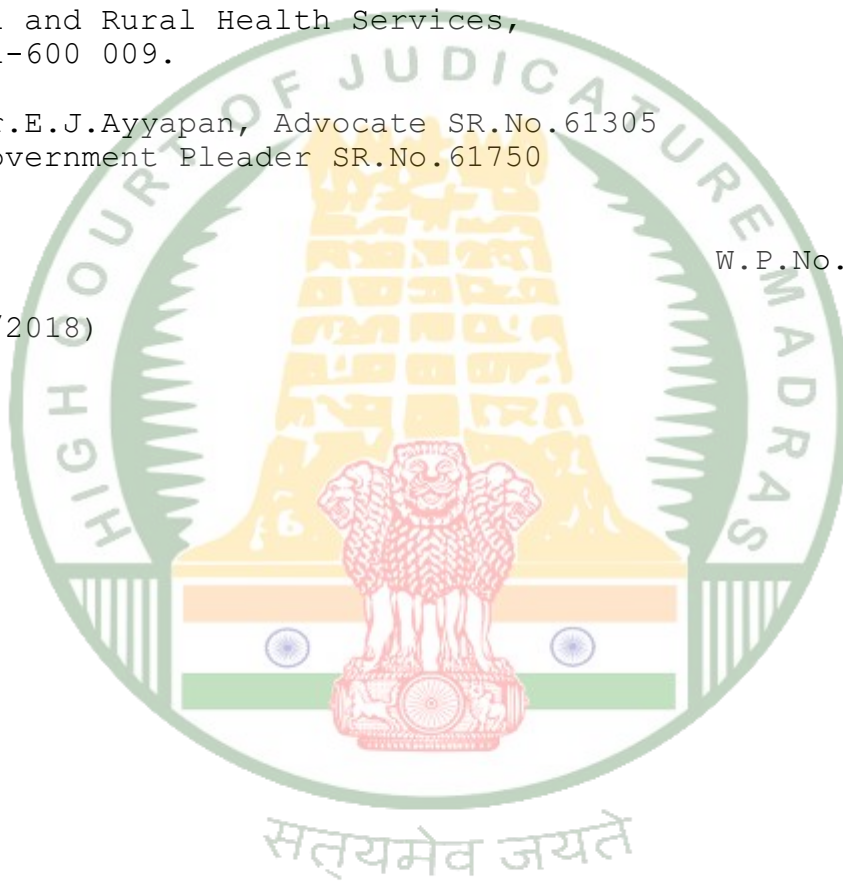
1. The The Principal Secretary to Govt.,
Head & Family Welfare Department,
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Cehnnai-600 009.

2. The Director,
Medical and Rural Health Services,
Chennai-600 009.

+1cc to Mr.E.J.Ayyapan, Advocate SR.No.61305
+1cc to Government Pleader SR.No.61750

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NM(CO)
RMP(27/09/2018)



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