



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.12973 of 2014

and

WP(MD) No.22777 of 2015

and

MP (MD) Nos.2 of 2014 and 1&2 of 2015

in W.P. (MD) No.12973 of 2014

&

MP (MD) No.1 of 2015

in WP (MD) No.22777 of 2015

WP (MD) No.12973 of 2014 :

- 1.T.Thirumurugan
- 2.N.Arumugam
- 3.N.Shankar
- 4.A.Jenova Pushpam
- 5.M.Periyasamy
- 6.M.Arulselvam
- 7.Joseph
- 8.T.Palani
- 9.Rajesh
- 10.Roland Ramesh
- 11.Sivanathan
- 12.V.Parmeshvarar
- 13.P.Velusamy
- 14.T.Sukumar
- 15.M.Vijayaragavan

... Petitioners

Vs.

1. The Secretary to Government,
Health and Family Welfare Department,
Chennai-9.

2. The Director of Public Health
and Preventive Medicine,
No.359, Anna Salai,
Chennai-6.



3. The Deputy Director of Health Services,
Viswanathapuram, Madurai-14.
4. The Deputy Director of Health Services,
Thoothukudi, Thoothukudi District.
5. The Deputy Director of Health Services,
Sankarankovil, Thirunelveli District.
6. The Deputy Director of Health Services,
Thirunelveli, Thirunelveli District.
7. The Deputy Director of Health Services,
Nagarkovil, Kanyakumari District.
8. The Deputy Director of Health Services,
Theni, Theni District.
9. The Deputy Director Health Services
& Family Welfare,
Tiruchirapalli, Tiruchirapalli District.
10. The Deputy Director of Health Services
& Family Welfare,
Collectorate Campus, Karur District.
11. The Deputy Director of Health Services
& Family Welfare,
Viruthunagar, Viruthunagar District.
12. The Block Medical Officer,
Primary Health Centre,
Kallikudi, Madurai District.
13. The Block Medical Officer,
Primary Health Centre,
Aeral, Thoothukudi District.
14. The Block Medical Officer,
Primary Health Centre,
Madalur, Thoothukudi District.
15. The Block Medical Officer,
Primary Health Centre,
Alangulam, Sankarankovil,
Thirunelveli District.
16. The Block Medical Officer,
Primary Health Centre,
Thisaiyanvilai, Thirunelveli District.



17. The Block Medical Officer,
Primary Health Centre,
Kothanallur, Kanyakumari District.

18. The Block Medical Officer,
Primary Health Centre,
Edaicode, Kanyakumari District.

19. The Block Medical Officer,
Primary Health Centre,
Muttom, Kanyakumari District.

20. The Block Medical Officer,
Primary Health Centre,
Rajakkamangalamthurai,
Kanyakumari District.

21. The Block Medical Officer,
Primary Health Centre,
Thadikarakkonam,
Kanyakumari District.

22. The Block Medical Officer,
Primary Health Centre,
Kuttakuzhi, Kanyakumari District.

23. The Block Medical Officer,
Primary Health Centre,
M.Suppalapuram, Theni District.

24. The Block Medical Officer,
Primary Health Centre,
Veeramachanpatty,
Trichy District.

25. The Block Medical Officer,
Primary Health Centre,
Mylampatty, Karur District.

26. The Block Medical Officer,
Primary Health Centre,
Kalkurchi, Virudhunagar District.

... Respondents

Prayer: This writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records from the first respondent in his proceedings in Letter No.10474/AB1/2009-28 dated 24.03.2014 and to quash the same and consequently direct the respondents to regularize the services of the petitioners as drivers from the



date of their initial appointment by absorbing them into regular vacancy with all applicable monetary benefits and continuity of service.

WP(MD)No.22777 of 2015 :

WEB COPY

A.Jesuraj

... Petitioner

Vs.

1. The Principal Secretary to Government,
Health and Family Welfare Department,
Chennai-9.
2. The Director of Public Health
and Preventive Medicine,
No.359, Anna Salai,
Chennai-6.
3. The Deputy Director of Health Services,
Viswanathapuram, Madurai-14.
4. The Block Medical Officer,
Primary Health Centre,
Karungalakudi,
Madurai District.

... Respondent

Prayer: This writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the respondents to issue order of appointment as Driver against a regular vacancy in the respondents department by giving relaxation and weightage to the services rendered by the petitioner in pursuant to the direction issued in WP(MD)No.7578 of 2014 dated 09.06.2015.

In both writ petitions :

For petitioner

: Mr.N.Sathish Babu

For Respondents

: Mr.J.Gunaseelan Muthaiah,

Additional Government Pleader

COMMON ORDER

In these writ petitions, the petitioners are working as drivers on contract basis in the Mobile Medical Unit run by the Public Health and Preventive Medicine Department. The case of the writ petitioners is that their names were sponsored by the Employment Exchange. However, the learned Additional Government Pleader appearing for the respondents would dispute the said contention.



2. Be that as it may, all the writ petitioners herein are working for the periods ranging from 8 to 9 years. The petitioners seek the benefit of regularization. The said prayer however cannot be granted by this Court. It is useful to refer to the decision of the Hon'ble Supreme Court reported in **(2017) 4 SCC 113 (State of Tamil Nadu Vs. A. Singamuthu)**. It was observed therein that when scheme of regularisation is missing from rule-book, one cannot claim any automatic right to regularization.

3. In the present case, the petitioners are unable to refer to any particular provision in support of their prayer. Therefore, this court will have to necessarily dismiss these writ petitions. However, the matter cannot rest there. Some of the petitioners herein have already moved this Court and this Court had earlier observed that in case of any fresh recruitment to the post of drivers in regular time scale of pay in future in Tamil Nadu Medical Subordinate Service Rules, the petitioners' cases may be considered by the Government by giving appropriate relaxation and weightage to the services rendered by them in accordance with rules and consider them for appointment. The aforesaid direction given by this Court on the earlier occasion is reiterated.

4. The learned counsel appearing for the writ petitioner drew the attention of this Court to G.O.Ms.No.74, Health and Family Welfare Department dated 27.02.2014. One M.Subramani, who was sponsored as driver by the employment exchange was absorbed in existing vacancy.

5. This Court however is not in a position to grant relief to the present writ petitioners by merely invoking or referring to G.O.Ms.No.74, dated 27.02.2014. However, the respondents will have to bear in mind the petitioners have put in service as drivers for quite a long number of years. That is why this Court on the earlier occasion directed consideration of their cases on a sympathetic basis and if any necessary even by relaxing the age.

6. With this observation, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(Protocol)

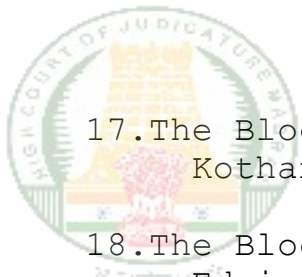
/True Copy/

Sub Assistant Registrar



To

1. The Principal Secretary to Government,
Health and Family Welfare Department, Chennai-9.
2. The Director of Public Health and Preventive Medicine,
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Kalkurchi, Virudhunagar District.

27. The Block Medical Officer,
Primary Health Centre,
Karungalakudi, Madurai District.

+ 2 ccs TO Mr.N.Sathish Babu , Advocate in SR No. 46027,46028
+ 1 cc TO The Special Government Pleader in SR No. 46552,46549

skm

AE/KK/SAR3/27.02.2018/7P/31C

**W.P. (MD) No.12973 of 2014
and**

**WP (MD) No.22777 of 2015
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**MP (MD) Nos.2 of 2014 and 1&2 of 2015
&**

**MP (MD) No.1 of 2015
02.02.2018**