

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.6345 of 2008

1.M.Balaraman
2.P.N.Venugopal
3.Jayaseelan Solomon
4.C.Chellappan
5.C.Durai
6.K.Parthasarathy
7.R.John George

... Petitioners

Vs.

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

2.The Director of Public Health,
and Preventive Medicine,
Chennai - 6.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to extend the concession given to one Ramalingam in G.O.(D).359 Health and Family Welfare (N2) Department dated 26.04.2004 to the petitioners.

For Petitioners : Mr.R.Naresh Kumar
for Mr.S.Ilamvaludhi

For Respondents : Mr.S.Ravikumar
(Additional Government Pleader)

O R D E R

This Writ Petition has been filed for issuance of a Writ of Mandamus, directing the respondents to extend the concession given to one Ramalingam in G.O.(D).359 Health and Family Welfare (N2) Department dated 26.04.2004, to the petitioners.

2.According to petitioners, they were appointed as Basic Health Workers and Cholera Worker on various dates. Some of the petitioners completed Sanitary Inspector's course and

some of them have not completed the Sanitary Inspector's course. The petitioners are all senior most Health Inspectors. The respondents have regularized one Ramalingam from his date of appointment and granted monetary benefits as per the orders of the Tribunal in O.A.No.7622 of 1997, which was confirmed by this Court in Writ Petition No.11465 of 1999 and by the Hon'ble Apex Court in S.L.P.No.C.C.6564 of 2002. The petitioners have given representation to P.A. to the Director of Public Health and Preventive Medicine on 12.01.2006 to extend the said benefit given to Ramalingam. No order was passed on their representation. The petitioners filed O.A.Nos.1499 to 1501 of 2003 to extend the benefits given to others. The Tribunal allowed the said O.A.s on 19.03.2004, but due to several later developments their legitimate rights were not considered. Hence, the petitioners have come out with the present Writ Petition.

3.The learned counsel appearing for the petitioners contended that number of Writ Petitions were allowed on the same issue and referred to a common order of a Division Bench of this Court dated 13.07.2007 made in W.P.No.29794 of 2007 batch.

4.The respondents filed counter affidavit. Mr.S.Ravikumar, learned Additional Government Pleader contended that the petitioners are not similarly placed persons like Ramalingam and others and they are not entitled to benefits as per the orders passed in the said petitions. The petitioners have approached this Court for the relief after three decades and settled service matters cannot be reopened after a lapse of reasonable period, which will be disturbing the settled position and create many administrative problem. The respondents have filed Review Petition before the Hon'ble Apex Court to review the order dated 25.02.2015 made in Civil Appeal No.6660 of 2011 and prayed for dismissal of the Writ Petition.

5.Heard the learned counsel appearing for the petitioners as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

6.The contention of the learned counsel appearing for the petitioners that this Court considered number of Writ Petitions on the same issue in respect of similarly placed employees and benefits were granted to the said employees and that petitioners are also entitled to said benefit, has considerable force. A Division Bench of this Court in a common order dated 13.07.2007 made in Writ Petition Nos.29794 to 29799 of 2007 has held as follows:

"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 regularization 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."

7.The Division Bench has directed the respondents to regularize the services of persons similarly placed like petitioners from the date they acquire qualification i.e., Sanitary Inspector course and pay monetary benefits. In Paragraph No.4 of the affidavit filed in support of the Writ Petition, the petitioners have stated that some of them have completed the Sanitary Inspector's course and some of them have not completed the Sanitary Inspector's course. The petitioners who have acquired qualification alone are entitled for regularization and consequential benefit from the date they acquire qualification i.e., completion of Sanitary Inspector's course. If some of the petitioners have not acquired necessary qualifications, they are not entitled to benefits as per the order of the Division Bench. In the affidavit filed in support of the Writ Petition, the petitioners have not furnished the details as to when they acquired the said qualification. In view of the same, the petitioners are directed to give fresh representation to the 2nd respondent, furnishing the details as to when they acquired the necessary qualification with supporting documents within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the 2nd respondent is directed to consider the said representations in consonance with the common order passed by the Division Bench of this Court referred to above and pass orders within a period of eight weeks thereafter.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

gsa

To

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

2.The Director of Public Health,
and Preventive Medicine,
Chennai - 6.

+1cc to Mr.S.Ilamvaludhi, Advocate SR.No. 46017
+1 cc to Government Pleader Sr.No. 46928

W.P.No.6345 of 2008

A.SK(15/07/2019)



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