

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :25.09.2019
CORAM
THE HON'BLE MR.JUSTICE M.DHANDAPANI
W.P.No.23269 of 2019

A.Kathirvel

... Petitioner

vs

- 1.The Secretary,
Health and Family Welfare Department,
Fort St.George,
Chennai-600 009.
- 2.The Director,
Public Health & Preventive Medicine,
DMS Compound,
Teynampet,
Chennai-600 006.
- 3.The Director,
Medical & Rural Health Service,
Teynampet,
Chennai-600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd and 3rd respondents to fix the seniority of the petitioner, taking into account of the services rendered in Panchayat Union Dispensaries as provided for pharmacist in G.O.Ms. No.60 Health and Family Welfare (N-2) Department dated 03.03.2015 and consider the petitioner's representation dated 22.02.2019 and till such time forbearing the respondents for giving effect to the panel of pharmacist for promotion to the post of Chief Pharmacist for the year 2019-2020 in Reference No.9330/E5 (1)2/2019 dated 29.05.2019 as per W.P No.41500 of 2006 dated 06.07.2010 order passed by this Hon'ble High Court within a stipulated time.

For Petitioner	: Mr.E.K.Kumaresan
For Respondents	: Mr.R.S.Selvam
	Government Advocate

O R D E R

Writ Petition is filed for issuance of a Writ of Mandamus, directing the 2nd and 3rd respondents to fix the seniority of the petitioner, taking into account of the services rendered in Panchayat Union Dispensaries as provided for pharmacist in G.O.Ms. No.60 Health and Family Welfare (N-2) Department dated 03.03.2015 and consider the petitioner's representation dated 22.02.2019 and till such time forbearing the respondents for giving effect to the panel of pharmacist for promotion to the post of Chief Pharmacist for the year 2019-2020 in Reference No.9330/E5 (1)2/2019 dated 29.05.2019 as per W.P No.41500 of 2006 dated 06.07.2010 order passed by this Hon'ble High Court within a stipulated time.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents. By consent of both sides, the writ petition is taken up for final disposal at the admission stage itself.

3. The petitioner has been completed diploma in Pharmacy and on 22.12.1984, the petitioner has been appointed as Pharmacist in the Panchayat Union Dispensaries at Veppur, Keelapulurpudur, Perambalur District. Till date, he is working as Pharmacist at Niekuppai Primary Health Centre at Perambalur District. The 1st respondent have taken the policy decision to conversion of Panchayat Union Dispensaries as Primary Health Centres and absorption of existing staff working in Panchayat Union Dispensaries in G.O.Ms.No.60 Health and Family Welfare (N-2) Department dated 03.03.2015. Though the petitioner has been absorbed by the 1st respondent in the year 2015, he has not been provided any promotional opportunities. Though the 2nd respondent was directed to send separate proposal for fixing seniority of the candidates who are absorbed by the 1st respondent, the 2nd respondent failed to prepare pharmacist seniority list and could not send the seniority list to the 1st respondent. The 3rd respondent issued proceedings of the Tamil Nadu Medical Subordinate Services Ref.No.9330/E5 (1) 2/2019 - dated 29.05.2019 - Panel of Pharmacist for promotion to the post of Chief Pharmacist for the 2019-2020. Accordingly, a temporary panel consisting of the names of pharmacist for promotion as Chief Pharmacist in the order of seniority as detailed in the annexure-1 to this order is drawn for the year 2019-2010. The pharmacist who has been absorbed by the 1st respondent from the Panchayat Union Dispensaries to the Primary Health Centres from one Department to other Department, the basic rule for considering the seniority are: a) the nature of duty of the

post; the responsibility and powers existing the officers holding the post; c) the minimum qualification prescribed for recruitment of that post and d) the salary of the post. The above condition is common for both the pharmacist who are serving under the Primary Health Centres and also Panchayat Union Dispensaries. Some Allopathy Doctors who have been absorbed by the Government from the Panchayat Union Dispensaries have approached this Court to regularize their services with effect from the date of their initial appointment and this Court in W.P No.41500 of 2006 dated 06.07.2010 allowed a batch of writ petitions directing the 1st respondent to count the services of those Medical Officers rendered into Primary Health Centres i.e Tamil Nadu Medical Service as Assistant Surgeons for all purposes including seniority promotions etc., In the case of Pharmacist, the same was not done and the services rendered by them in Panchayat Union Dispensaries were ignored altogether. The petitioner has also similarly placed in all aspects and the 1st respondent ought to have extended the benefits to the pharmacist who has been absorbed in the Primary Health Centres by taking into the account of the services rendered by the petitioners in the Panchayat Union Dispensaries. But the 2nd and 3rd respondents not acted upon the order passed by this Court effectively and therefore, the petitioner made representation on 22.02.2019 to the respondents and a direction was also issued by the 1st respondent. Till date, the petitioner's representation was not considered. Hence the present writ petition is filed.

4.The learned counsel for the petitioner submitted that it would suffice if a direction is passed to the 2nd and 3rd respondents to consider the representation of the petitioner dated 22.02.2019, within a reasonable time as fixed by this Court.

5.The learned counsel appearing for the respondents accede to the submission made by the learned counsel for the petitioner and submitted that if any such representation was received by the 2nd and 3rd respondents, the same will be considered on merits and in accordance with law.

6.Thus, without going into the merits of the case, this Court is inclined to direct the 2nd and 3rd respondents to consider the representation of the petitioner dated 22.02.2019 and pass orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of copy of this order.

7.With the above directions, the writ petition stands disposed of. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Secretary,
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 - 2.The Director,
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 - 3.The Director,
Medical & Rural Health Service,
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Chennai-600 006.
- +1 cc to Mr.E.K.Kumaresan Advocate sr82939

W.P.No.23269 of 2019

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