



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.3672 of 2014

Tamil Nadu Health Inspectors Welfare Association,
represented by its State General Secretary,
P.Rajendran. ... Petitioner

vs.

1.The State of Tamil Nadu,
through its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai -06.

2.The Director of Public Health and
Preventive Medicine,
No.859, Anna Salai, Chennai-06.

3.S.Jeyakumar ... Respondents

(R3 impleaded vide Court order dt.17.07.2019 in WMP(MD)
No.7797/2018 in WP(MD)No.3672/2014)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the respondents to regularize the service of the Health Inspectors Grade-II, appointed on 31.10.2006 (now working as Health Inspector Grade-I) with effect from 19.02.1998 and consequently, to direct the respondents to give consequential service and monetary benefits.

For Petitioner:Mr.K.Samidurai

For R1 and R2 :Mr.D.Muruganandam

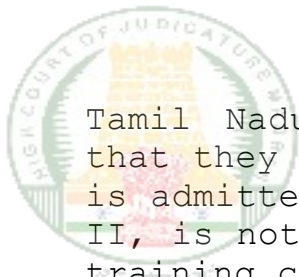
Additional Government Pleader

For R3 :Mr.T.Lajapathy Roy

ORDER

This Writ Petition is filed for issuing a Writ of Mandamus to direct the respondents to regularize the service of the Health Inspectors Grade-II, appointed on 31.10.2006 (now working as Health Inspector Grade-I) with effect from 19.02.1998 and consequently, to direct the respondents to give consequential service and monetary benefits.

2.The petitioner is a Welfare Association of Tamil Nadu Health Inspectors. It is stated that the members of petitioner Association were appointed as Health Inspector Grade-II under



Tamil Nadu Public Health Subordinate Service on 30.10.2006 and that they were rendering service from the date of appointment. It is admitted that the qualification for the Health Inspector Grade-II, is nothing, but a pass in Higher Secondary Course and one year training course in Multipurpose Health Worker (Male).

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3.It is stated that the Government gave training to male candidates with employment assurance. The second respondent through Employment Exchange called for training course candidate from the year 1988-89 to 1991-92. The members of the petitioner association completed their training during 1990-91 and 1991-92. It is also admitted that at the time of training, the second respondent directed all the members of the petitioner Association to execute an indemnity bond to the effect that they will not go for any other employment in other establishment. Even though the members of petitioner association completed the training during 1990-91 to 1991-92, it is stated by the petitioner that the petitioner's members were not given accommodation due to administrative reasons. The respondents could not accommodate all the persons, who have completed the training either due to want of vacancies or due to administrative reasons. The petitioner raised a ground that the members of petitioner association cannot be denied the benefit of others, who have completed training programme in the same batch. It is further pointed out that the Government has passed Government Order in G.O.(Ms).No.278, dated 31.10.2006, giving appointment to 742 trainees, who have underwent training during 1990-91 and 1991-92.

4.The learned Counsel for the petitioner submitted that for no fault of members of petitioner association, they were not appointed, even though they completed their training in 1990-91 and 1991-92. The learned Counsel further pointed out that the members of the petitioner association were given job assurance for all persons undertaking training. The learned Counsel would further submit that the respondents ought to have regularised the service of the members of the petitioner with effect from 19.02.1998 along with their batch mates and that direction should be issued to the respondents to give consequential service and monetary benefits.

5.The learned Counsel for the petitioner also relied upon the judgment of Honourable Supreme Court in the case of **Sanjay Dhar vs Jammu and Kashmir Public Service Commission and another**, reported in **2008 (8) SCC 182**. In paragraph 9 of the said judgment, the Honourable Supreme Court has held as follows:

"9.Ms. Indira Jaising, the learned senior counsel for the appellant, submitted that the appellant having been appointed a Munsif in the judicial service of J & K, the constitutional grievance of the appellant stands redeemed;



still the issue raised by him survives for adjudication as the appellant has been wrongfully denied appointment in the year 1995 pursuant to the 1992-1993 selections and if in spite of his having been selected, the appointment was wrongfully withheld then the relief sought for by him ought not to be denied to him and if the appellant be found entitled to appointment in the year 1995 then his seniority in the cadre of Munsif should be calculated from the date with which other incumbents figuring in the select list, in which the appellant also figured, were appointed. We find merit in this submission."

6.The learned Counsel for the petitioner relied upon paragraph 4 of the above judgment, wherein, the Honourable Supreme Court has further held that the appellant therein entitled to the relief of his appointment being calculated with effect from the date, from which the candidates finding their place in the order of appointments issued pursuant to the selection list prepared by Jammu and Kashmir Public Service Commission for 1992-93 were appointed and deserves to be assigned notionally a place in seniority consistently with the order of merit assigned by Jammu and Kashmir Public Service Commission. This judgment has no application to the present case, as the appellant before Honourable Supreme Court was wrongly denied appointment and his appointment was withheld even though he was found entitled to appointment in 1995.

7.The learned Counsel for the petitioner further relied upon another judgment of Delhi High Court in **W.P.No.3860 of 2017** in the case of **Naresh Kumar vs Union of India and others**, wherein, it has been held as follows:

"19. Similarly, in *Anjan Kumar Mandal v. Union Of India* 2017 SCC Online Del 12028, this Court was dealing with a similar fact scenario as in the present case, in respect of CRPF officials. It was held therein that in view of the undisputed position that the Petitioner's appointment/joining was delayed due to failure on the part of the Respondents in obtaining the Verification Report in a timely manner, the Petitioner is justified in claiming his seniority at par with his batchmates. The judgment of the Supreme Court in *Rohitash Kumar (supra)* was also distinguished as being not applicable to the facts therein."

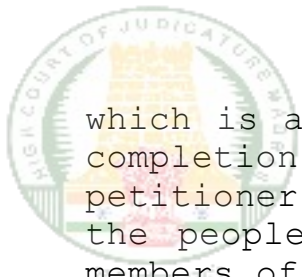
8.The learned Special Government Pleader filed a detailed counter affidavit denying the averments and entitlements of members of petitioner to treat them as a person appointed along with his batchmates, who were recruited on earlier dates.



9. Sum and substance, the claim of petitioner is based on the fact that the Government introduced a training programme with job assurance to the members of petitioner association and that those, who completed training in the particular year ought to have been considered along with their batch mates even though their appointment was delayed for other reasons.

10. The judgments relied upon by the learned Counsel for the petitioner are not applicable to the facts of the present case. First of all, it is to be seen that the principal grievance expressed by the appellant before the Honourable Supreme Court and the issue raised by the appellant before the Honourable Supreme Court was whether the appellant was wrongly denied appointment in the year 1995 pursuant to 1992-93 selection. Similarly, the judgment of Honourable Division Bench of Delhi High Court also in relation to a case, where, the petitioner's appointment was delayed due to failure on the part of the respondents in obtaining the verification report in a timely manner. Both judgments above referred to are pertaining to recruitment by a single process. Here, the members of the petitioner association were given training as per the policy decision of the Government to make them suitable for a job. It is very difficult to accept that the members of the petitioner association should be treated along with all those who got appointment earlier, but completed training along with members of petitioner association. The appointment is by following a process calling for application. It is not in dispute that based on recommendation of Employment Exchange and depends upon vacancy, the person, who have completed training for one year, were given appointment. The learned Counsel for the petitioner himself admits that the common feature among the persons, who got training between 1990-91 and 1991-92, is that they completed training simultaneously. The training underwent by the members of the petitioner association is one of the qualifications required for the post. Merely because, the members of petitioner association got training along with his batch mates, it cannot be presumed that the members of the petitioner were selected pursuant to a single recruitment process.

11. Merely because, the indemnify bond was executed by the members of the petitioner and they were given training, this Court cannot treat them as appointed in 1998, eight before the date of appointment. The petitioner seeks a direction to the respondents to regularise the service of members of petitioner association as Health Inspector Grade-II, who were appointed in the year 2006, with effect from 19.02.1998. This prayer is not fair and the petitioner can never be granted the relief of regularisation on par with those, who were in service for eight years. The members of petitioner association have underwent a training programme,



which is an essential qualification for the post. On the basis of completion of training along with the batch of candidates, the petitioner cannot claim seniority or service benefits on par with the people, who were appointed long prior to the appointment of members of petitioner association.

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12. For all these reasons, this Court is unable to grant any relief to the petitioner. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Principal Secretary,
The State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai -06.

2. The Director of Public Health and
Preventive Medicine,
No.859, Anna Salai, Chennai-06.

+1 CC to MR.T. LAJAPATHI ROY, Advocate (SR-102229[F] dated 28/11/2019)

+1 CC to MR.K.SAMIDURAI, Advocate (SR-102852[F] dated 29/11/2019)

W.P. (MD) No. 3672 of 2014

27.11.2019

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