



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.17855 of 2015

and

M.P. (MD) Nos.2 to 4 of 2015 and W.M.P. (MD) No.14975 of 2016

- 1.R.Velusamy
- 2.K.Ganesan
- 3.G.Nirmala
- 4.K.Balasubramanian
- 5.N.Nirmala
- 6.A.Panneerselvam
- 7.A.Tamilselvan
- 8.A.Jaya Chandran
- 9.S.Ramani
- 10.P.Ravindran

... Petitioners

-Vs-

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

- 2.The Director of Public Health and  
Preventive Medicine,  
D.M.S.Compound, Teynampet,  
Chennai-6.

- 3.The Commissioner of Food Safety,  
Tamil Nadu Food Safety and Drugs  
Administration Department,  
D.M.S.Compound, Teynampet,  
Chennai-6.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 2 and 3 to deploy the Health Inspector Grade-I working in the scale of pay of Rs.9300-34800+GP 4200 to the post of Food Safety Officer as per guidelines issued by the first respondent in Letter No.28594/AB2/2013-3, dated 25.11.2013 forthwith.

For Petitioners

: Mr.M.Saravana Kumar

For Respondents

: Mr.M.Jeya Kumar,  
Additional Government Pleader.

**ORDER**

The relief sought for in the present Writ Petition is for a direction to direct the respondents 2 and 3 to deploy the Health Inspector Grade-I, working in the scale of pay of Rs.9300-34800+GP 4200 to the post of Food Safety Officer, as per guidelines issued by the first respondent in proceeding dated 25.11.2013.

2. Pursuant to the Food Safety and Standards Act, 2006 (hereinafter referred to as 'the Act'), separate Commissionaire was constituted under the head of Commissioner of Food Safety. Under Section 36 of the Act, the Commissioner of Food Safety shall appoint Food Safety Officers. Section 37 of the Act reads as under:-

*"37. Food Safety Officer.-(1) The Commissioner of Food Safety shall, by notification, appoint such persons as he thinks fit, having the qualifications prescribed by the Central Government, as Food Safety Officers for such local areas as he may assign to them for the purpose of performing functions under this Act and the rules and regulations made thereunder.*

*(2) The State Government may authorise any officer of the State Government having the qualifications prescribed under Sub-Section (1) to perform the functions of a Food Safety Officer within a specified jurisdiction."*

3. As per the said provision, the Commissioner of Food Safety shall by notification appoint such persons as he thinks fit, having the qualifications prescribed by the Central Government, as Food Safety Officers. Pursuant to the Act, practice of notified the list of eligible candidates from the Department of Public Health Preventive and Medicine, is undertaken and accordingly, suitable and qualified persons working in the cadre of Health Inspector, are appointed. However, all these aspects are to be regulated by the Commissioner of Food Safety.

4. The very relief sought for in the present Writ Petition to deploy him to the post of Food Safety Officer cannot be considered. Deputation to the particular post can never be claimed as a matter of legal right. The writ petitioner is the regular employee of the department of Public Health Preventive and Medicine and therefore, he cannot seek any deputation to another department, namely, Commissionaire of Food Safety, which is governed by the Commissioner of Food Safety. Therefore, deputation cannot be directed to be provided to the writ petitioner by this Court under Article 226 of the Constitution of India.

5. However, whenever the list of eligible persons is prepared by the competent authority, the name of the writ petitioner shall also be considered along with all other eligible



candidates and if he is otherwise eligible and qualified, he may be considered for deputation. However, appointments are to be made strictly in accordance with the provisions of the Act and whenever an opportunity arises, the case of the writ petitioner is also to be considered along with all other eligible candidates, who are aspiring to secure deputation to the post of Food Safety Officer.

6. With these observations, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Secretary to the Government of Tamil Nadu,  
Health and Family Welfare Department,  
Fort St. George, Chennai-9.
2. The Director of Public Health and  
Preventive Medicine,  
D.M.S. Compound, Teynampet,  
Chennai-6.
3. The Commissioner of Food Safety,  
Tamil Nadu Food Safety and Drugs  
Administration Department,  
D.M.S. Compound, Teynampet,  
Chennai-6.

+2CC TO MR.M.SARAVANA KUMAR, Advocate Sr. No. 74658  
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 74755

**W.P. (MD) No. 17855 of 2015**  
**10.07.2019**

KMK (CO)

TR (22.07.2019) 3P 7C