

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.11.2020

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.26406 of 2013

and

MP.No.2 of 2013

M.Chellapandi
M.Muthulakshmi
M.Marimuthu
K.Santhi
B.Senthilkumari
A.Vijaya

.. Petitioners

vs.

- 1.The State of Tamilnadu,
By its Secretary to the Government,
Health and Family Welfare department,
Fort St. George,
Chennai 600 009.
- 2.The Director,
Medical Rural and Health Services Dept.,
Chennai -6.
- 3.The Director of
Public Health & Preventive medicine,
Chennai -6.
- 4.The Deputy Director of
Public Health & Preventive Medicine,
Theni- District.
- 5.The Project Director,
Health Project, DMS complex,
Chennai -6.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in Na.Ka.No.24451/NiPi5/1/2013 dated 13.6.2013 and quash the same and consequently direct the respondent to regularize of service on completion of 2 years of service by extending the benefits of G.O.Ms.No.340 dated 02.12.2010.

For Petitioners : M/S.S.Esai Rani
For Respondent(s) : Mr.S.Thangavel, Spl.G.P

ORDER

This writ petition has been filed by the petitioners, challenging the order of the 2nd respondent in Na.Ka.No.24451/NiPi5/1/2013 dated 13.6.2013, with a prayer to quash the same and consequently to direct the respondent to regularize of service of the petitioners on completion of 2 years of service by extending the benefits of G.O.Ms.No.340 dated 02.12.2010.

2.The case of the petitioners is that they were working as sweeper on daily wage basis, in the Government Primary Health Centre and all are continuing in the same post. The grievance of the petitioners is that though they have worked for several years, their services were not regularised and they are not brought to the regular time scale pay. Therefore, the petitioners jointly made a representation to the respondent on 14.03.2010, requesting to absorb them into regular service as per G.O.Ms.No.340, dated 02/12/2010. However, the representation was not considered. Aggrieved over the same, the petitioners filed a writ petition in W.P.No.8123/2013 and this Court, by its order dated 1.4.2013, issued a direction to the respondent to consider the petitioners representation therein. In compliance of the above said order, the respondent passed an impugned order dated 13.06.2013, rejected the petitioners representation on the ground that G.O.Ms.No.340, dated 02.12.2010 is eligible only those persons, who are working in the Tamil Nadu Health System Project. Against the impugned rejection order, the petitioners are before this Court with the above said prayer.

4.Learned counsel for the petitioners submitted that though the petitioners, unfortunately made a representation to pass order in terms of G.O.Ms. No.340, dated 02.12.2010, however prior to that the Government issued G.O.Ms.No.385, dated 1.10.2010, granting certain benefits to the part time employees, states that all sweepers whether on consolidated pay or daily wages, who have completed three years of service are eligible for special time scale of pay. Hence this Court may permit the petitioners to make a fresh representation in order to avail the benefits of G.O.Ms.No.385, dated 01.10.2010 and further this Court may direct the respondent to consider such representation in accordance with law within a reasonable time.

5.On the above contention, this Court heard the learned Special Government Pleader appearing for respondent, who has no serious objection being such direction issued by this Court and if any representation be received, the same would be considered

in accordance with law.

6.The facts in the present case is not disputed one. Admittedly the petitioners were working in the Primary Health Centres not in the Tamil Nadu Health Project Department. Therefore the respondent has rightly rejected the petitioners representation. This Court is not satisfied with the stand taken by the learned counsel for the petitioner at this stage, for making fresh representation to avail such benefits in terms of G.O.Ms.No.385, dated 01.10.2010. Hence I am not inclined to grant the relief as sought for by the petitioners. However considering the limited request made by the learned counsel for the petitioners, without expressing any opinion on the merits of the case, permits the petitioners to make a representation to the respondent within a period of 12 weeks from the dated of receipt of copy of this order and thereupon on receipt of the same, the 1st respondent may pass appropriate orders in accordance with law as expeditiously as possible.

7.With the above observation and direction, this Writ petition stands dismissed. However there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst. Registrar (cs)

//True Copy//

Sub Asst. Registrar

jrs

To

1.The Secretary to the Government,
State of Tamilnadu,
Health and Family Welfare department,
Fort St. George, Chennai 600 009.

2.The Director,
Medical Rural and Health Services Dept.,
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3.The Director of
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4.The Deputy Director of
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Theni- District.

5.The Project Director,
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+1 cc to the Government Pleader in Sr.No.37933

W.P.No.26406 of 2013

AJB(CO)
VC (19/12/2020)