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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2020

CORAM:

THE HON'BLE MR.JUSTICE D. KRISHNAKUMAR

W.P.No. 28828 of 2017

and WMP.Nos. 31034, 31035 & 31043 of 2017
and 26118 of 2018, 26226 of 2019 and 2625 of 2020

1. S. Chandran
2. K.Arulprabhu
3. S.Sasikala
- 4.A.Murugan
- 5.S.Saravanan
- 6.M.Arumugam

..Petitioners

Vs

- 1.Principal Secretary to
Government Health and Family Welfare
Department, Secretariat,
Fort St. George,
Chennai-600009

- 2.Director of Public Health and
Preventive Medicines
No.359 Anna Salai, DMS Compound
Chennai-600006

- 3.Deputy Director of Health
Services
No.14 Ka.Mamanandal Road
Kallakurichi 606 202

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the 3rd respondent dated 26.10.2017 made in Na.Ka.No.3500/a5/2017 quash the same and consequently direct the 3rd respondent to regularise the service of the petitioners as Drivers with all consequential monetary and service benefits.

For Petitioner : Mr. N.G.R.Prasad
for M/s.M.Gnanasekar

For Respondents : Mr.J.Ramesh,AGP -R1 to R3



O R D E R

The prayer sought for in the Writ Petition is to call for the records pertaining to the order of the 3rd respondent dated 26.10.2017 made in Na.Ka.No.3500/a5/2017 quash the same and consequently direct the 3rd respondent to regularise the service of the petitioners as Drivers with all consequential monetary and service benefits.

2. Brief facts of the case:

The writ petitioners were initially appointed as Drivers in the Mobile Medical Units, now re-designated as Hospitals on Wheels in various Districts through the State of Tamil Nadu. All these petitioners were appointed on consolidated wages and they were originally paid R.3500/- per month, which was periodically revised and as on date, they are getting a consolidated pay of Rs.9,000/-. According to the petitioners, except the fact that they were paid on consolidated basis, their appointments are regular in all aspects, following recruitment procedures, on being sponsored through employment exchange. The 2nd respondent by his letter dated 26.10.2013 called for particulars from the Health Units for the purpose of regularisation. Even though required particulars were submitted, there was no progress till date. After initiation of process of regularisation of petitioner's services on 26.10.2013 by the 2nd respondent, the 3rd respondent issued a notification dated 26.10.2017, calling for application for the post of Drivers. Challenging the same, the present writ petition is filed.

3. Heard both sides and perused the documents available on record.

4 The learned counsel for the petitioners submitted that similarly placed persons have filed a writ petition in W.P. No. 15989 of 2019 and this Court by order dated 13.08.2019 has considered the request made by the writ petitioners' therein and issued directions to the respondents. The relevant portion of the said order is extracted below;

" 2.After notice, Mr.J.Pothiraj, learned Special Government Pleader has entered appearance on behalf of the respondents and a counter affidavit has been filed. In the counter affidavit, it is stated in para 6 as under:

"6.It is also submitted that as per the orders issued in G.O.(Ms).No.91, Personnel and Administrative Reforms (S) Department, Dated: 14.08.2015.The second respondent in his letter R.No.39974/VM/A3/ 2015, dated: 03.01.2016,



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25.05.2017 and 11.11.2017 has submitted proposals to the first respondents for absorption of Mobile Medical Unit drivers on consolidated pay in to regular time scale of pay within the sanction strength and for relaxation of age rule in favour of the petitioners."

3.The learned Special Government Pleader would submit that the proposal has been submitted to the 1st respondent for regularising these petitioners within the sanctioned strength by relaxing the age rule in favour of the petitioners.

4.Considering the proposal submitted to the 1st respondent towards regularisation of these petitioners, in the fitness of things, this Court disposes of the present writ petition, with a direction to the 1st respondent as under:

(i) The 1st respondent shall consider the proposal and pass appropriate orders granting the benefit of regularisation to the petitioners, by giving suitable relaxation if necessary, with all attendant and consequential benefits of such regularisation.

(ii)The 1st respondent in this regard is directed to pass appropriate orders within a period of eight weeks from the date of receipt of a copy of this order. "

5. The learned counsel for the petitioner further submitted that it would suffice, if this Court issues directions to the respondents on the same line in terms of the order passed by this Court in W.P. No. 15989 of 2019, dated 13.08.2019.

6. In view of the submissions made by the learned counsel for the petitioners, the following directions are issued to the respondents;

i. The writ petitioners shall make fresh representation to the first respondent within a period of two weeks from the date of receipt of a copy of this Order, seeking regularisation of their service.

ii.On receipt of such representation, the first respondent shall consider the petitioners' request on merits, in accordance with law, taking note of the order passed by this Court in W.P. No. 15989 of 2019 dated 13.08.2019.



With the above directions, the writ petition is disposed of.
No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Secretary to
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Department, Secretariat,
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Chennai-600009

2.The Director of Public Health and
Preventive Medicines
No.359 Anna Salai, DMS Compound
Chennai-600006

3.The Deputy Director of Health
Services
No.14 Ka.Mamanandal Road
Kallakurichi 606 202

+1 cc to Government Pleader Sr.No. 13037

+1cc to Mr.M.Gnansekar , Advocate SR.No. 11685

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A.SK(19/02/2020)