



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2020

CORAM:

THE HONOURABLE **MR. JUSTICE M.S.RAMESH**

W.P. (MD) No.1566 of 2020

B.Dinesh Kumar

... Petitioner

/vs./

1.The State of Tamil Nadu,
Rep., by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai -9.

2.The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar, Park Town,
Chennai-3.

3.The Director of Public Health & Preventive Medicine,
Public Health & Preventive Medicine Department,
No.359, Anna Salai,
Chennai-6.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to select and appoint the petitioner by direct recruitment to the post of Health Officer in Tamil Nadu Public Health Service 2013-2014 under Most Backward Class/De-notified community (MBC/DC) category in the light of proceedings issued by the second respondent in his proceedings in memorandum No.7315/OTD-A1/2014-2 dated 10.09.2015 in Class 3(ii) and in the light of resignation letter dated 21.10.2019 submitted by the Dr.M.Vinoth and by considering the petitioner's representation dated 28.11.2019 within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkatesh Kumar
for M/s.Ajmal Associates

For Respondents : Mr.C.M.Mari Chelliah Prabhu
Additional Government Pleader
(for R1 & R3)

Mr.D.Sivaraman (For R2)



ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. Though the petitioner has sought for issuance of writ of mandamus to direct the respondents to select and appoint the petitioner by direct recruitment to the post of Health Officer in Tamil Nadu Public Health Service 2013-2014 under Most Backward Class/De-notified community (MBC/DC) category in the light of proceedings issued by the second respondent in his proceedings in memorandum No.7315/OTD-A1/2014-2 dated 10.09.2015 in Class 3(ii) and in the light of resignation letter dated 21.10.2019 submitted by the Dr.M.Vinoth, in my view, such a decision is to be taken by the third respondent and in case, the petitioner is aggrieved against such any decision, it would be appropriate to approach this Court.

3. When the writ petitioner herein had earlier filed a writ petition in W.P(MD).No.15922 of 2019 seeking for selection to the post of Health Officer under the third respondent herein on the ground that one Mr.M.Vinoth had resigned from the post, who was under the category of MBS/DC. This Court by order dated 08.08.2019 had dismissed the said writ petition on the submission made by the respondents therein that the resignation of Dr.M.Vinoth was yet to be acted upon, since he had not remitted a sum of Rs.1,44,806/- (Rupees One Lakh Forty Four Thousand Eight Hundred and Six only) as per the bond executed by him to the Government. However, the petitioner was granted liberty to workout his remedy at a later stage.

4. In the present writ petition, the petitioner had produced a copy of the letter dated 21.10.2019 issued by said Dr.M.Vinoth, which evidences that the payment of bond amount of Rs.1,44,806/- executed by him to the treasury and challan and the same has also been produced before this Court. In this connection, the petitioner has also made a representation to the respondents on 28.11.2019 to consider his candidature for appointment to the aforesaid post.

5. Whenever a representation is made to a statutory authority to redress the claim of the employee, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. Such an inaction would amount to dereliction of duties and thereby this Court would be justified in invoking its extraordinary powers under Article 226 of Constitution of India and thereby direct such authority to consider the representation within the stipulated time.



6. In view of the aforesaid developments, it would be appropriate to direct the third respondent herein to consider the petitioner's representation dated 28.11.2019 within stipulated time. Accordingly, there shall be a direction to the third respondent to consider the petitioner's representation, dated 28.11.2019, on its own merits and pass appropriate orders within a period of six (6) weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any of its view with regard to the claim made by the petitioner in his representation and it is for the third respondent to consider it in accordance with law.

7. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

rmk

To:

1. The Principal Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai -9.

2. The Secretary,
Tamil Nadu Public Service Commission,
TNPSC Road, VOC Nagar, Park Town, Chennai-3.

3. The Director of Public Health & Preventive Medicine,
Public Health & Preventive Medicine Department,
No.359, Anna Salai, Chennai-6.

+1 CC to M/s.SPL.GP (SR-3659[F] dated 29/01/2020)

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-3448[F] dated 28/01/2020)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-3308[F] dated 28/01/2020)

Order made in
W.P. (MD) No.1566 of 2020
Dated: 27.01.2020

svn (CO)

TR(12.02.2020) 3P 7C