



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.1666 of 2014

and

M.P. (MD)Nos.1 to 3 of 2014

C.Christopher Selvadoss

... Petitioner

Vs.

1.The Director,
Department of Public Health and
Preventive Medicine,
Chennai-600 006.

2.The Deputy Director,
Health Services,
Thoothukudi.

3.The Block Medical Officer,
Government Primary Health Centre,
Mudalur-628 702,
Thoothukudi District.

... Respondents

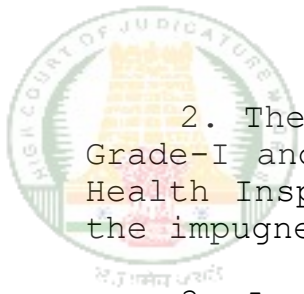
PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings in R.No.134452/MP.1/S3/2007, dated 10.01.2014 of the first respondent and quash the same and direct the respondents to promote the petitioner as Health Inspector Grade-I with effect from 03.02.2013 with all other attendant benefits.

For Petitioner : Mr.J.Ashok
for M/s Jeyapaul Associates

For Respondents: Mr.D.Muruganandham
Additional Government Pleader

ORDER

The order of cancellation of temporary promotion dated 10.01.2014 is impugned in the present writ petition.



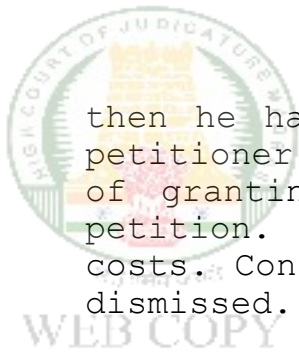
2. The petitioner states that he is working as Health Inspector Grade-I and he was earlier promoted vide order dated 12.11.2013 as Health Inspector Grade-I. However, the said order was cancelled in the impugned order dated 10.01.2014.

3. Learned Counsel appearing on behalf of the writ petitioner made a submission that no show cause notice or opportunity was provided to the writ petitioner before passing the impugned order. Thus the impugned order is liable to be set aside. It is further contended that the petitioner is senior as per the panel dated 20.03.2012 and the junior persons to the petitioner were already promoted to the post of Health Inspector Grade-I and on the said ground also, the impugned order is also liable to be scrapped.

4. The earlier promotion granted to the writ petitioner was admitted. A temporary promotion was granted under Rule 39(a)(i) of the Tamil Nadu State and Subordinate Services Rules. Rule 39(a)(i) the Tamil Nadu State and Subordinate Services Rules clearly states that where it is necessary in the public interest owing to an emergency which has arisen to fill immediately a vacancy in a post borne on the cadre of a higher category in a service or class by promotion from lower category and there would be undue delay in making such promotion in accordance with the rules, the appointing authority may temporarily promote a person who possess the qualifications prescribed for the post, otherwise than in accordance with the rules.

5. The temporary promotions are granted on certain emergency circumstances and the holders of the posts on temporary promotions cannot claim any right for regular promotion. Regular promotions are to be granted strictly in accordance with the rules contemplated and by following procedures. The temporary promotions granted under Rule 39(a)(i) the Tamil Nadu State and Subordinate Services Rules would not confer any right on the candidate to seek regular promotions. This being the scope of temporary promotions under Rule 39(a)(i) the Tamil Nadu State and Subordinate Services Rules, this Court is of the considered opinion that no prior opportunity or show cause notice is required for the cancellation of such promotions. Temporary promotions are granted to meet out the exigencies. Thus, such promotions are purely on temporary basis and would not confer any right. The regular promotions if granted in violation of rules, then the petitioner is at liberty to challenge the said regular promotions granted to any of his junior or in violation of rules.

6. Further the impugned order is self speaking that the writ petitioner was promoted on temporary basis under Rule 39(a)(i) of the Tamil Nadu State and Subordinate Services Rules and subsequently he was promoted as Health Inspector Grade-I on regular basis and this being the factum, the petitioner if aggrieved with promotion to his junior in violation of the rules,



then he has to question the said illegal promotion. However, the petitioner has not established any acceptable ground for the purpose of granting the relief as such sought for in the present writ petition. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SSL

To

- 1.The Director,
Department of Public Health and
Preventive Medicine,
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- 2.The Deputy Director,
Health Services,
Thoothukudi.
- 3.The Block Medical Officer,
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+1 CC to SGP (SR-21014[F] dated 03/11/2020)

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PU(CO)

NR (10/11/2020) 3P : 5C