



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **04.02.2020**

CORAM:

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

W.P.(MD) No.26397 of 2019

M.Thangavel

... Petitioner

/Vs./

- 1.The State of Tamil Nadu,
rep., by its Secretary,
Department of Health and Family Welfare,
Chennai 600 009.
- 2.The Director of Public Health and Preventive Medicine,
DMS Complex,
Teynampet,
Chennai 600 006.
- 3.The District Collector,
Theni District,
Theni.
- 4.The Deputy Director of Health Service,
Block I, District Collectorate Backside,
Theni, Theni District 625 531.
- 5.The Block Medical Officer,
Government Primary Health Centre,
Kandamanoor,
Theni District.
- 6.The Medical Officer,
Government Primary Health Centre,
Kummanantholu,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to regularize the service of the petitioner on completion of 2 years in terms of G.O.Ms.No.151, Social Welfare and Nutritious Meal Department dated 16.10.2008.



For Petitioner : Mr.M.Pounraj

For Respondents : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader
(for R1 to R4)

Mr.J.Senthilkumaraiah
Standing Counsel (for R5 & R6)

ORDER

The petitioner herein is a physically challenged person, who is said to have completed six years of service as full time Multi Purpose Hospital Worker. He was initially appointed on 30.04.2013 on consolidated pay of contract basis for a period of one year, which came to be extended every year. The petitioner had made a representation dated 19.10.2019, which was kept pending without consideration and hence, the present writ petition has been filed.

2.The learned counsel for the petitioner would submit that the Government Order in G.O.Ms.No.151, Social Welfare and Nutritious Meal Department, dated 16.10.2008, has facilitated requisition of persons with a consolidated payment, who have completed two years of service and therefore, there is no impediment for the respondents to consider the petitioner's request for regularization.

3.Per contra, the learned Additional Government Pleader would submit that G.O.Ms.No.151 is eligible only for those who were appointed in the Government Department on a permanent post on consolidated pay and who have completed two years of service and since the post held by the petitioner is not a permanent post, his service cannot be considered.

4.In the light of the submission made by the respective counsels, G.O.Ms.No.151, Social Welfare and Nutritious Meal Department, dated 16.10.2008 was perused. The said Government Order is to the effect that the Government employees, who are physically challenged and who have completed two years of service on consolidated basis, are eligible to be regularized and if required, certain norms also could be relaxed. The Government Order does not speak about the requirement of holding a permanent post on consolidated pay to such employees who are physically challenged and who had completed two years of service. While that being so, the stand of the fourth respondent herein, as reflected in the counter affidavit that the employees should hold a permanent post for minimum two years, is baseless. The fourth respondent cannot try to read something in between the lines in G.O.Ms.No.151, when the same has not been provided for. As such, the petitioner has already completed two years and he is also physically disabled person and he



is in receipt of consolidated pay, would be entitled to benefit of G.O.Ms.No.151.

5.In the light of the above observations, there shall be a direction to the second respondent herein to consider the petitioner's representation dated 19.1.2019 and pass suitable orders in the light of the observations made in this order and thereby regularize the service of the petitioner, if he is otherwise qualified, which process shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

6.The Writ Petition stands allowed accordingly. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

To:

1.The Secretary,
State of Tamil Nadu,
Department of Health and Family Welfare,
Chennai 600 009.

2.The Director of Public Health and Preventive Medicine,
DMS Complex, Teynampet,
Chennai 600 006.

3.The District Collector,
Theni District, Theni.

4.The Deputy Director of Health Service,
Block I, District Collectorate Backside,
Theni, Theni District 625 531.

+1 CC to M/s.M.POUNRAJ, Advocate (SR-4653[F] dated 04/02/2020)

+1 CC to M/s.SPL GP (SR-5135[F] dated 06/02/2020)

Order made in
W.P.(MD) No.26397 of 2019
Dated: 04.02.2020

JMN(06.03.2020) 3P : 7C

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