

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2591 of 2021

1.S.Rajendran
2.G.Gnanasekar
3.V.Jayaraman
4.A.R.Rathika
5.R.J.Umarani
6.R.Muthukrishnan
7.A.Venkatachalam
8.T.Mahalingam
9.S.P.Dinamani
10.Tmt.A.Cecilia Mariya Soundarame .. Petitioners

Vs.

1.State of Tamil Nadu
Rep. by Principal Secretary to Government
Health and Family Welfare Department
Fort St. George, Secretariat
Chennai - 600 009
2.The Director of Public Health and Preventive Medicine
O/o.the Directorate of Public Health and Preventive Medicine
359, Anna Salai, DMS Complex
Teynampet, Chennai - 600 006 .. Respondents

* * *

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to pass orders on the representation submitted by the petitioners on merit, by promoting the petitioners to the post of Assistant, Superintendent and other higher posts on par with Tmt.Y.V.Vimala and consequently grant pay and post parity to the petitioners on par with their junior Tmt.Y.V.Vimala, in the post of Assistant and other higher posts, with all consequential and other attendant benefits, including the arrears of salary and retirement benefits, within a time frame to be fixed by this Hon'ble Court.

* * *

For Petitioner : Mr.G.Sankaran

For R1 and R2 : Mr.J.Pothiraj
Special Government Pleader

O R D E R

The petitioners have come forward with this writ petition for a mandamus, directing the respondents to pass orders on the representation submitted by the petitioners on merit, by promoting the petitioners to the post of Assistant, Superintendent and other higher posts on par with Tmt.Y.V.Vimala and consequently to grant pay and post parity to the petitioners on par with their junior Tmt.Y.V.Vimala, in the post of Assistant and other higher posts, with all consequential and other attendant benefits, including the arrears of salary and retirement benefits, within a time frame to be fixed by this Hon'ble Court.

2. Petitioners are commonly aggrieved persons based on the revised seniority list in the post of Assistant for the panel year 2006 - 2007 issued by the 2nd respondent dated 19.7.2018 and consequently to grant pay and post parity to them on par with their junior Tmt.Y.V.Vimala in the post of Assistant and other higher posts. The petitioners have passed Tamil Nadu Medical Code test and others tests as required and they have been promoted to the post of Assistant and further promoted to the post of Superintendent and so on. The promotions were given effect to the number of persons to the post of Assistant and Superintendent without reference to the requisite qualification as per Special Rules relate to passing of Tamil Nadu Medical Code Test, Account Test etc. by preparing the panel without insisting passing of Tamil Nadu Medical Code Test contrary to rules. Accordingly, number of persons not eligible for promotions were given promotion in violation of rules. That apart, no yearwise panel was prepared and followed by including the names of qualified persons every year for promotion to the post of Assistant and Superintendent.

3. It is the further grievance of the petitioners is that unqualified persons/subsequently qualified persons have been given promotion to the post of Assistant and other higher posts without reference to the eligibility and contrary to the Rules which is evident from the seniority list issued by the 2nd respondent vide proceedings dated 19.07.2018 for the first time covering the panel year from 2006-2007 onwards, it is necessary to consider the senior eligible persons for post and pay parity on par with wrongly promoted ineligible persons. Therefore, the petitioners have submitted representations to consider them for

promotion to the post of Assistant on par with Tmt.Y.V.Vimala, and that their representations remain unanswered, the petitioners have joined together and filed this single writ petition

4. Heard both sides and perused the materials placed before this Court in the form of typed set of papers.

5. Considering the limited scope of the prayer and the facts and circumstances of the case, this Court, without expressing any opinion on the merits of the case, directs the 2nd respondent to consider the representations of the petitioner submitted on various dates, after hearing all the necessary parties, who are likely to be affected, and pass an order on merit, within a period of 90 days from the date of receipt of a copy of this order.

6. The petitioners shall furnish their phone numbers, email IDs, if any, etc., along with a copy of their representations and this order, to the second respondent forthwith. The second respondent is directed to communicate the decision taken on the representation, to the petitioners within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioners to file contempt after expiry of the specified period. In case the authority concerned fail to send communication to the petitioners, he/she will have to face the civil imprisonment in case of contempt proceedings and, if he/she is unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of attempt of delivery, so that the petitioners, at a later point of time, will not take a plea that he is not aware of the order.

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

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Asr

To

1.The Principal Secretary to Government
Health and Family Welfare Department
Fort St. George, Secretariat
Chennai - 600 009

2.The Director of Public Health and Preventive Medicine
O/o.the Directorate of Public Health and Preventive Medicine
359, Anna Salai, DMS Complex
Teynampet, Chennai - 600 006

+1 cc to M/s.G.Sankaran, Advocate SR No.7004

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SMI (CO)
RG.26.04.2021 (4P/4C)



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