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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2021

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THE HONOURABLE MR.JUSTICE R. SURESH KUMAR

W.P. No. 11177 of 2006

M.Raja Chidambaram

... Petitioner

-vs-

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai - 9.

2. The Director of Public Health and
Preventive Medicine,
DMS Compound,
Chennai - 6.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records in pursuant to the impugned panel issued by the second respondent in Proceeding R.No.120561/MP2/SI/2005 dated 12.11.2005 and quash the same and consequently direct the respondents to prepare a fresh panel including the qualified Health Inspectors for promotion to the post of Block Health Supervisors and accordingly promote them.

For Petitioner	:	Mr.R.Prem Narayanan
For Respondents	:	Mr.K.Magesh Special Govt. Pleader

O R D E R

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records in pursuant to the impugned panel issued by the second respondent in Proceeding R.No.120561/MP2/SI/2005 dated 12.11.2005 and quash the same and consequently direct the respondents to prepare a fresh panel including the qualified Health Inspectors for promotion to the post of Block Health Supervisors and accordingly promote them.

2. The petitioner was working as Health Inspector Grade-I in the respondent department and his next avenue of promotion is Block Health Supervisor.



3. In this context, some of the Health Inspector Grade-I or Multi-purpose Health Inspector or Basic Health Inspector, as all the three are under some category, since have been considered for the promotion for Block Health Supervisor, that panel was challenged by the petitioner, on the ground that, these three feeder category people should have completed five years experience with certificate called "Sanitary Quality Course Certificate" and without that certificate, even though, they completed five years experience in the feeder category post, they are not eligible to be considered for promotion to the post of Block Health Supervisor. Therefore, on that ground, the petitioner questioned the panel prepared in this regard for giving promotion to various people and seeks promotion for the petitioner who is having such certificate.

4. Mr.R.Prem Narayanan, learned counsel appearing for the petitioner has reiterated the same and seeks indulgence of this Court stating that, during the pendency of the writ petition, the petitioner subsequently has been given promotion in the year 2008, however, the petitioner since had been eligible to be considered for promotion in the year 2006 itself along with the others who had been considered in the impugned panel, the petitioner's name should have been included since he was qualified to hold the promoted post. Therefore, he seeks indulgence of this Court to give promotion to the petitioner for the post of Block Health Supervisor notionally from the year 2006 instead of 2008.

5. Mr.K.Magesh, learned Special Government Pleader appearing for the respondents has relied upon the following averments made in the counter affidavit, which reads thus:

"2. I state that with regard to averment made in para 2,3 and 4 of the Writ Petition, it is submitted that as per adhoc rules governing the post of Block Health Supervisor in Tamil Nadu Public Health Subordinate Service approved in G.O.Ms.No.1123, Health and Family Welfare Department, dated 13.08.1991 and subsequently amended in G.O.Ms.No.256, Health and Family Welfare Department dated 15.05.1996, the qualification for the post of Block Health Supervisor in Tamil Nadu Public Health Subordinate Service is as follows:

"Qualification: No person shall be eligible for appointment to the post unless he has experience for a total period of not less than five years in the category of Multi-purpose Health Supervisor or Health Inspector or Basic



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Health Inspector in the Tamil Nadu Public Health Subordinate Service."

As such, particulars for preparation of panel for the post of Block Health Supervisor for the year 2005-2006 were called for in letter No.120561/MP2/S1/2005, dated 12.11.2005 and subsequently candidates with five year experience in the post of Health Inspector, had been considered and included in the panel for the post of Block Health Supervisor in Tamil Nadu Public Health Subordinate Service during the panel year 2005-2006 according to their seniority in proceedings R.No.120561/MP.2/SI-2005, dated 23.01.2006 of the second respondent."

6. By relying upon the aforesaid, the learned Special Government Pleader would submit that, in the relevant rule governing the promotion from the three feeder categories to the post of Block Health Supervisor as quoted above, it has been specifically stated that, if a person being a Multi-purpose Health Supervisor or Health Inspector or Basic Health Inspector in the Tamil Nadu Public Health Subordinate Service with five years experience, he shall be eligible to consider for promotion to the post of Block Health Supervisor. Accordingly, as per the rule, the panel was prepared. Therefore, in this regard, the petitioner could not have any grievance on the alleged ground that, those who have the certificate called "Sanitary Quality Course Certificate" alone would be entitled to get such promotion, because no such requirement has been made in the said rule as quoted above. Therefore, the very challenge made in this regard on the said ground does not hold any water, hence the petitioner is not entitled to get any relief as claimed by him.

7. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

8. Though it was claimed by the petitioner that, only those who are having certificate called "Sanitary Quality Course Certificate" with five years experience in the feeder category alone would be entitled to get the promotion for the post of Block Health Supervisor, nothing has been stated in that line in the said rule, which has been quoted herein above. It is only stated that, no persons can be appointed to the post of Block Health Supervisor unless he is having the experience of total period of not less than five years in the category of Multi-purpose Health Supervisor or Health Inspector or Basic Health Inspector in the Tamil Nadu Public Health Subordinate Service.

9. When that being the position, the further insistence of certificate as claimed by the petitioner cannot be expected from the employer to insist the feeder category people to consider



for the promotion for Block Health Supervisor.

10. Therefore, on that ground, the petitioner is not entitled to challenge the promotion or panel for the said post of Block Health Supervisor made to the other eligible persons.

11. Moreover, subsequently, after he has completed the five years experience, the petitioner had been considered for promotion and admittedly given promotion in the year 2008, which the petitioner having been received, had been continuously working in the promoted post. Therefore, the plea now raised by the petitioner's counsel that, the petitioner should have been considered for promotion in the year 2006 itself along with others, because he was having the certificate called "Sanitary Quality Course Certificate" cannot be accepted.

12. It is a settled proposition that, when the rule specifies certain things as qualification for consideration for appointment or promotion, the employer shall strictly follow the rule and beyond the rule, no one can expect that, the particular rule is exclusively available only for X or Y and because of such exclusive qualification, such plea should be considered de hors the rule.

13. Therefore, in that view of the matter, this Court feels that, the petitioner has not made out any case, hence, the remedy as claimed by him cannot be granted, therefore, the impugned proceedings cannot be said to be an unsustainable one and the same cannot also be successfully challenged on the ground raised by the petitioner.

14. For all these reasons, the Writ Petition fails and hence, it is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Vji

To

1. The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai - 9.



2. The Director of Public Health and
Preventive Medicine,
DMS Compound,
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+1cc to Mr.P.Prem Narayanan, Advocate, S.R.No.18998
+1cc to the Government Pleader, S.R.No.18614

W.P. No. 11177 of 2006

PMK (CO)
SB (14/07/2021)