



W.P.No.21478 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 03.12.2021

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR**

**W.P.Nos.21478 of 2009**

**and**

**M.P.No.1, 2 of 2009**

The Tamilnadu Public Health Department  
Health Inspectors Welfare Association,  
Rep. by its President Mr.S.Muthu  
L.144, Anbu Nagar, Perumalpuram Post  
Thirunelveli-7.

... Petitioner

Vs.

1. The Secretary to the  
Government of Tamilnadu  
Health and Family Welfare Department,  
Fort St. George, Chennai-600 009.

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

... Respondents

Prayer: Writ petition filed under Section 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records pertaining to the order of the 1st respondent in G.O (3D) No.40 dated 5.10.2009 and quash the same.



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For petitioner : Mr.C.K.M.Appaji  
For respondents : Mr.T.Arunkumar  
Addl.Govt.Pleader for R1 & R2

### **ORDER**

This writ petition has been filed for issuance of a Writ of Certiorari calling for the records pertaining to the order of the 1st respondent in G.O (3D) No.40 dated 5.10.2009 and quash the same.

#### **2. The case of the petitioner in brief:**

The Petitioner is the Health Inspectors Welfare Association and it was formed for the welfare of the Health Inspectors. There are three types of Health Inspectors namely i) Health Inspector Grade-I, ii) Health Inspector Grade-1B and iii) Health Inspector Grade-II. Health Inspector Grade-I are the promotees at the feeder categories; Health Inspectors Grade-1B were absorbed from the Leprosy Eradication programme of Government of Tamilnadu, however the Department is maintaining the separate seniority for them; The Health Inspectors Grade-II are the Direct recruiters, who have been sponsored by the Employment Exchange.



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2.1. Under the circular of the Additional Director of Health Service of the Family Planning in R.No.19182/E/IIA/68-69 dated 07.11.1968, a guideline was issued to absorb Health Inspector from the feeder categories viz Health Assistant, Leprosy Assistant, Field Assistant, Basic Health Assistant and Vaccinators and based on the circular, various staffs working in the feeder categories have been promoted as Health Inspector Grade-I, since 1968. Due to the non availability of Training Programme, the promotions were delayed as against the regular turn since 1982. After repeated representations of the association, the first respondent had passed G.O.Ms.No.216 dated 12.06.2007, to impart training to 40 Lab Assistants, who have already completed 10 years of service according to their seniority and based on the training, appointment was made as Health Inspectors. In pursuant to the G.O, the Lab Assistants worked in the Department continuously for years together were promoted and now most of the promotees are in the verge of retirement. At present, there are 402 promotees Health Inspector grade-I, are working in the Department.



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2.2. During the year 1992, the Department had appointed various Health Inspector-Grade-II, who were underwent Health Inspector Training in the Gandhigram Rule Training Institute and such Health Inspector Grade-II are direct recruitees, sponsored by the local employment exchanges. Periodically, Health Inspector Grade-II were also promoted as Health Inspector Grade-I in the Department by superseding our seniority.

2.3. Even though two categories of Grade-I are working in the Department, no inter se-seniority list was maintained and all along the promotions were given according to the choice of the Department without considering seniority. It is settled legal position that while preparing the seniority list, the promotees should be given weightage and the direct recruitees should be placed par below than the promotees. The department, taking advantage of the non-availability of inter se-seniority list, granted privilege to the direct recruits for promotions to the post of Health Inspector Grade-I. Recently, the department has proposed to promote 256 Health Inspector Grade-I, as Block Health Supervisors. But, 190 Health Inspector Grade-I direct



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recruits are selected in a hidden manner by superseding the seniority of the Health Inspector Grade-I promotees.

2.4. In this connection, the association has made representation to the second respondent on 10.09.2009 and requested him to reconsider the decision. In the meanwhile, the first respondent issued G.O.3(D)No.40 dated 05.10.2009, by publishing the list of 191 Health Inspector Grade-I for promoting them as Block Health Supervisors. The above G.O. does not find any members of Health Inspector Grade-I promotees and only the direct recruits were opted for the promotion of Block Health Supervisors, which is illegal. Hence this writ petition.

### **3. The contentions raised in the counter affidavit in brief:**

The feeder category for the post of Block Health Supervisor is the Health Inspector alone. But for giving promotion to the post of Health Inspector, prior to the year 1982, there were certain categories of posts were available viz. Basic Health Worker, Vaccinators, Cholera Workers, Health Assistant, Cholera Supervisors, etc. As and when they completed the Sanitary Inspectors Training Course, they had been



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promoted to the post of Health Inspector, After 1982, the above said Uni Purpose posts were merged and redesignated as Multi Purpose Health Worker (subsequently designated as Multi purpose Health Assistant and then Health Inspector Grade-II) and certain posts in the category fo Health Inspector, Basic Health Inspectors (Qualified), Health Assistants in Kanyakumari District and Shenkottai Taluk, Cholera Supervisors. Health Assistants in Panchayat Unions, Basic Health Inspector (Unqualified) and designated as Multi purpose Health Supervisor vide G.O.Ms.No.1936, Health and Family Welfare Department, dated 29.09.1982. Subsequently, the Leprosy Inspector had also been brought under the control of the Director of Public Health and Preventive Medicine and designated them as Health Inspector Grade-IB vide G.O.Ms.No.320, Health and Family Welfare Departmet, dated 27.06.1997. Further, they were merged with the post of Health Inspector Grade-I vide G.O.Ms.No.382 dated 12.10.2007 and subsequently given retrospective seniority and promotion to the post of Block Health Supervisor w.e.f. 01.08.1997 based on the common orders of this Court dated 23.07.2010 in W.P.No.23096 of 2016 etc. batch.



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3.1. The Health Inspector Grade-II is governed by the Adhoc Rules (approved vide G.O.Ms.NO.1507 dated 16.08.1989). According to the adhoc rules, the incumbent, who holds the post of Health Inspector Grade-II, after completion of 5 years of service, are eligible for promotion as Health Inspector Grade-I. Based on the representation of the Lab Assistants, the Government have considered their request and the above said post has been included one among the feeder categories for the post of Health Inspector Grade-I. However, they should possess the Sanitary Inspectors' Course Certificate and amendment to the adhoc rules to this effect were issued vide G.O.Ms.No.185 dated 05.05.1998, as follows:

“ The Lab Assistant with Sanitary Inspector Course Certificate is one among the feeder categories prescribed for the appointment to the posts of Health Inspector Grade-I.

Provided that for appointment from the post of Laboratory Assistants (Malaria) one must possess the Sanitary Inspectors' Course Certificate”.

Based on the above amendment, the Government have ordered to impart training to 470 Lab Assistant , who have already completed 10 years of service according to their seniority, vide G.O.Ms.No.216,



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Health and Family Welfare Department, dated 12.06.2007 and based on the training, they were promoted as Health Inspectors.

3.2. The candidates were appointed to the post of Health Inspector Grade-II, with qualification of Sanitary Inspector Training Course under direct recruitment and as and when they complete five years of service in the post of Health Inspector Grade-II, they are fully qualified for getting promotion to the post of Health Inspector Grade-I. Whereas, the Lab Assistants like the petitioner are eligible for getting promotion to the post of Health Inspector Grade-I, after undergoing the Sanitary Inspector Training Course. Considering their length years of service, the Government had permitted the Director of Public Health and Preventive Medicine to impart condensed period of 6 months Multi Purpose Health Workers Training to Lab Assistant, those who have completed more than 10 years of service, according to their seniority vide G.O.Ms.No.216, dated 12.06.2007. Accordingly, after undergoing the above said training for a period of 6 months, they had been promoted to the post of Health Inspector Grade-I in the existing vacancies in a phased manner. Based on the completion of above said



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training 465 candidates were promoted as Health Inspector Grade-I during the year 2008-2009. Further, during the year 2016-2017 and 2017-2018, 195 and 138 candidates in the post of Lab Assistants like the petitioner had been promoted as Health Inspector Grade-I. As and when the Lab Assistants and Health Inspector Grade-II promoted as Health Inspector Grade-I, the seniority in the post of Health Inspector Grade-I alone will be considered for the post of Block Health Supervisor. Hence, no inter-se seniority can be followed as contended by the petitioner.

3.3. The Health Inspector Grade-II those who have been appointed during 1989-1990, 1990-91, 1991-92, 1992-93 and 1998 have been promoted as Health Inspector Grade-I in 2005; whereas, the members of the petitioner's Association were imparted with six month condensed training during the year 2008 and therefore, they were promoted as Health Inspector Grade-I in the year 2008. Hence, they were juniors than the Health Inspector Grade-I, who have been promoted directly from the recruited Health Inspector Grade-II.



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3.4. The post of Block Health Supervisor is filled up by promotion from the post of Health Inspector Grade-I, according to the seniority with not less than five years of experience in the post of Health Inspector Grade-I. Since the vacancy to the post of Block Health Supervisor was rising day by day due to retirement, voluntary retirement and death of employees, which resulted in loss of quality of service in public health activities carried out at rural areas, the Government had relaxed the five years experience into two years vide G.O.(3D)No.40 dated 05.10.2009, as a special case. Pursuant to the above G.O., panel for the post of Block Health Supervisor for the year 2009-2010 with the names of 195 Health Inspector Grade-I, who have been promoted during the year 2005; and were seniors in the post of Health Inspector Grade-I to the members of petitioner's Association, was drawn and published in the proceedings dated 20.10.2009. The members of the petitioner's Association have been promoted as Health Inspector Grade-I during the year 2008, but the individuals mentioned in the affidavit have been promoted as Health Inspector Grade-I during the year 2005 itself. Therefore, the members of the petitioner's Association are juniors to them and subsequently, the contention of the



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petitioner that 190 Health Inspector Grade-I direct recruits are selected in a hidden manner by superseding the seniority of Health Inspector Grade-I promotees is untenable.

3.5. There are two feeder categories for the post of Health Inspector Grade-I, one is Health Inspector Grade-II and another is Lab Assistant. As and when the candidates in the post of Health Inspector Grade-II, their seniority has been assigned in the post of Health Inspector Grade-I. In respect of Lab Assistant, when they completed 10 years of service and after completion of Sanitary Inspector's Training course, their names were considered for the post of Health Inspector Grade-I along with the Health Inspector Grade-II. Further, when the candidates are promoted to the post of Health Inspector Grade-I, there is no need to maintain any inter-se-seniority for giving promotion to the post of Block Health Supervisor, as contended by the petitioner. Hence, the petition is liable to be dismissed.

4. Heard the rival submissions made by the learned counsels appearing for both the parties and I have perused the materials on record.



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5. It is not the disputed fact that the post of Health Inspector Grade-I was absorbed from the feeder categories namely Health Assistant, Leprosy Assistant, Field Assistant, Basic Health Assistant and Vaccinators, as per the guideline issued vide circular dated 07.11.1968 by the Additional Director of health Service of the Family Planning. Further, As per G.O.Ms.No.216 dated 12.06.2007, the members of the petitioner Association, who worked as Lab Assistants, were imparted for condensed period of six months training, prior to their promotion as Health Inspector Grade-I.

6. According to the petitioner, two categories of Health Inspector Grade-I are working in the Department; one category of Health Inspectors are the direct recruits, who were underwent Health Inspector Training in the Gandhigram Rule Training Institute; and the other category of the Health Inspectors are the promotees from the post of Lab Assistants, after completion of training course. The contention of the petitioner is that no inter se-seniority list was maintained by the Department and while preparing the seniority list, the promotees from the post of Lab Assistant should be given weightage and the direct



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recruitees should be placed par below than the promotees. The petitioner has raised allegation against the respondents that the Department had proposed to promote 256 Health Inspector Grade-I as Block Health Supervisors, but 190 Health Inspector Grade-I direct recruits are selected in a hidden manner by issuing the impugned G.O.(3D) No.40 dated 05.10.2009 and hence, the same is liable to be quashed.

7. In reply to the above contentions, the respondents have clearly stated that, the members of the Associations had been promoted as Health Inspector Grade-I during the year 2008, after successful completion of the six months condensed course of Multi purpose Health Workers Training; whereas, the individuals mentioned in the impugned Government Order have been promoted as Health Inspector Grade-I during the year 2005 itself. Therefore, the members of the petitioner Association are juniors to them.

8. With regard to the contention of the inter-se seniority, the respondent has clearly replied that, when the Lab Assistants and Health



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Inspector Grade-II are promoted as Health Inspector Grade-I, the seniority in the post of Health Inspector Grade-I alone will be considered for the post of Block Health Supervisor and hence, no inter-se seniority can be followed.

9. Therefore, the contentions raised in the affidavit by the petitioner are not acceptable, because, the members of the petitioner Association were promoted as Health Inspector Grade-I in the year 2008 and the individuals mentioned in the impugned G.O.(3D) No.40 dated 05.10.2009 were promoted during the year 2005 itself. Further, as clearly stated by the respondents, after getting promotion to the post of Health Inspector Grade-I by the two categories i.e. the direct recruiters and the promotees (members of the petitioner Association), seniority in the post of post of Health Inspector Grade-I alone will be considered for the post of Block Health Supervisor and there is no necessity to follow inter-se seniority. Thus, this court is of the view that there is no merits in the writ petition and the same is liable to be dismissed.



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10. Accordingly, the writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

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Index:Yes/No  
Internet:Yes/No  
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To

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**D. KRISHNAKUMAR, J.**  
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