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W.P.No.22092 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 03.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.Nos. 22092 of 2009

and

M.O.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 letters of the 2nd respondent in R.No.115567/SBHL.1/S1/2006 dated 29.7.2009 and R.No.115587/ SBHL.1/S1/2006 dated 18.8.2009 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 seeking to issue a Writ of Certiorari calling for the records pertaining to the letters of the 2nd respondent in R.No.115567/SBHI.1/S1/2006 dated 29.7.2009 and R.No.115587/SBHI.1/S1/2006 dated 18.8.2009 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. Originally, the Health Inspectors were classified as Health Inspector Grade-I and Health Inspector Grade-II and they have been promoted from the feeder categories such as Laboratory Asst (Malaria), Field Assistants, Technician, Health Visitors for the promotion of Health Inspector, the candidates have to undergo mandatory training such as Sanitary Inspector Course and Multi-purpose Health Training Course.



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2.1. As per G.O.Ms.No.320 dated 27.06.1997, the post of Health Educator, Non-medical supervisor and Leprosy Inspectors were redesignated as Health Inspector Grade-1B and they were brought under the control of Director of Public Health and Preventive Medicine for the implementation of the Programme. However, as per the above G.O., separate seniority list should be maintained for Grade 1B Health Inspector in the Department. As per G.O.Ms.No.382, the post of Health Inspector Grade-IB was redesignated as Health Inspector Grade-I. Against the above Government Order, one Panneerselvam filed Writ Petition in W.P.No.9193 of 2007 and the same was dismissed on 11.09.2008 along with batch of writ petitions. Against which, he filed an appeal and obtained interim stay in W.A.M.P.No.826 of 2008. Thereafter, the above stay was vacated on 28.07.2009, however, it was made clear that this order will not entitle the beneficiaries of G.O.Ms. No.382 dated 12.10.2007 to claim further promotions as a matter of right, since the order is not passed on the merits of the case and also since their redesignation itself is subject to the outcome of the writ appeal. Therefore, it is clear from the reading of the order that the promotion made under G.O.Ms.No.382 dated 12.10.2007 is put on



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hold and the respondents shall not give any preference to Health Inspector Grade-1B, as per the G.O.

2.2. The Government has issued Order in G.O.Ms.No.204 dated 15.07.2009, invalidating Village Administrative Officers from holding the post of Birth and Death Registrar in the Primary Health Centre on considering their inexperience and less education and directed to absorb the Health Inspectors to the said post. Taking advantage of the above G.O., the second respondent had issued a guide lines by letter dated 29.08.2009, for appointment of Health Inspectors as Birth and Death Registrars in the respective Health unit district. Under the guidelines, the second respondent directed to exhaust the list of all available Grade-I Health Inspectors first for appointment of Birth and Death Registrar in the Primary Health Centre and then take up the list of all Grade-1B Health Inspectors. Even after doing so, if there are primary Health Centres without Health Inspectors Grade-I, then the Grade-II Health inspectors may be considered for the said post. Again, the second respondent issued a letter dated 18.08.2009, wherein, it is clarified, " whenever there is a dispute/confusion in nominating the Health



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Inspectors as Birth and Death Registrars at present, it is presumed that there are only two categories of Health Inspectors i.e. Grade-I and Grade-II and automatically the senior most person in the Health Inspector Grade-I of the PHC should be designated as Birth and Death Registrar. The Birth and Death Registrar post is not a promotional post and hence, seniority followed for promotion, need not be taken into account. The person senior in the PHC will hold the post of Birth and Death Registrar ". The above letters issued by the second respondent as illegal and erroneous. Hence this writ petition.

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

The petitioners have been originally appointed as Lab Assistant-Grade-III and six months condensed course of Multi purpose Health Workers Training was given for those who had completed 10 years of service, according to seniority, as per G.O.Ms.No.216 dated 12.06.2007. After successful completion of the said training, they have been promoted as Health Inspector Grade-I during the year 2008.

3.1. Due to the eradication of Leprosy in the State of Tamil Nadu,



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the post of Leprosy Inspector was brought under the control of the second respondent and they were re-designated as Health Inspector Grade-1B w.e.f. 01.08.1997 vide G.O.Ms.No.320 dated 27.06.1997. With regard to the fixation of seniority in respect of Health Inspector Grade-1B, various writ petitions were filed by the erstwhile Leprosy Inspectors. The Hon'ble Division Bench of this court, in its common order dated 23.07.2010 in W.P.No.23893 of 2006 etc. has passed the following order:

"28. As stated above, all the Unipurpose Health Workers was promoted as Health Inspectors Grade-I in the year 1995 itself much prior to the integration of Leprosy Inspectors into Multi-purpose Health Worker Scheme. But, the others who got promoted from Health Inspectors Grade-II or from Laboratory Assistant to Health Inspectors Grade-IA after the Leprosy Inspectors were re-designated Health Inspectors Grade-IB are now treated as seniors to the Health Inspectors Grade-IB since the Health Inspectors Grade-IB with effect from the date of integration. Admittedly, those Health Inspectors Grade-II and Laboratory Assistant were in receipt of lower scales of pay and they were treated as inferior to both Health Inspectors Grade-IA and Grade-IB.

29. xxxxxxxx the Leprosy Inspectors who were absorbed into Multi-Purpose Health Worker Scheme on 1.8.1997 are entitled to be re-designated as Health Inspectors Grade-I with the scale of Rs.1350-2200 from 1.8.1997 and they should be given the scale of Rs.4500 -



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7000 when the Health Inspectors Grade-I were granted with all consequential benefits.

30. Likewise, Paras 6(iv) and (v) of G.O.Ms.No.382 are bad and illegal as clause (iv) of Para 6 places Health Inspectors Grade-IB who were re-designated as Health Inspectors Grade-I by G.O.Ms.No.382, enbloc below the last person of the Health Inspector Grade-I already working in the Department. Clause (v) of Para 6 is also not correct in denying promotion to the re-designated Health Inspectors Grade-I to the post of Block Health Supervisor and Technical Personal Assistant till the last person in the existing list of Health Inspectors Grade-I gets promotion as Block Health Supervisor and Technical Personal Assistant. The Leprosy Inspectors on integration into Multi-Purpose Health Workers as on 1.8.1997 should be treated as Health Inspectors Grade-I and they should be given promotion as Block Health Supervisor and Technical Personal Assistant from the date of which their juniors were promoted, with all consequential benefits. However, it is made clear that on re-designated the Leprosy Inspectors as Health Inspectors Grade-IA / Grade-I as on 1.8.1997, they could be placed at the bottom of the seniority of the serving Health Inspectors Grade-I as on 1.8.1997".

Against the above order, Special Leave petitions in SLP No.24492 to 24494 of 2010 in Civil Appeal Nos.4483 to 4485 of 2013 were filed and the Hon'ble Supreme Court has dismissed the appeal vide order dated 07.05.2013. As per the order of the Hon'ble Supreme Court dated 07.05.2013, a revised seniority list of Health Inspector Grade-I



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was prepared and published by placing re-designated Health Inspector Grade-I (erstwhile leprosy Inspector) w.e.f. 01.08.1997 vide order dated 25.10.2013. Consequent on the revision of seniority list of Health Inspectors Grade-I, the members of the petitioner Association have become juniors to the re-designated Health Inspector Grade-I, as they were promoted as Health Inspector Grade-I, only during the year 2008.

3.2. The Government has issued G.O.Ms.No.204 dated 15.07.2009, appointing the Health Inspectors working in the Primary Health Centres as Birth and Death Registrars for registration activities, enabling the public to get the birth certificates without any hardship and to avoid delay. Based on the above G.O. the Village Administrative officers have been invalidated from holding the post of Birth and Death Registrar.

3.3. Further, Guidelines were issued vide letter dated 29.07.2009 to all the District Officers, to follow the instructions passed in G.O.Ms.No.204 dated 15.07.2009. Due to the queries raised by the some DDHS in the above said orders, the second respondent had clarified that " it is presumed that there are only two categories of



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Health Inspectors i.e. Grade-I and Grade-II whenever there is a dispute/confusion in nominating the Health Inspectors as Birth and Death Registrars, automatically the senior most Health Inspector Grade-I of the PHC should be designated as Birth and Death Registrar. The Birth and Death Registrar post is not a promotional post and hence, the seniority number followed for promotion, need not be taken into account. The senior Health Inspector Grade-I in the PHC will hold the post of Birth and Death Registrar". On revision of seniority list of Health Inspector Grade-I, as per orders of the Supreme Court dated 07.05.2013, all the redesignated Health Inspector Grade-I, who are seniors in the respective PHC are also being nominated as Birth and Death Registrars. Therefore, the orders passed by the second respondent are in order and hence, the writ petition is liable to be dismissed.

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

5. The contention of the petitioner is that, as per G.O.Ms.No.320 dated 27.06.1997, the post of Health Education, Non medical



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Supervisor and Leprosy Inspectors were re-designated as Health Inspector Grade-1B. As per the above G.O., separate seniority list ought to have been maintained and the Department ought not to have treated the Health Inspector Grade-1B in par with the Health Inspectors Grade-1.

6. According to the petitioner, the Health Inspectors Grade-1B absorbed from the Leprosy Eradication Programme in the Department of Public Health and Preventive Medicine were unqualified and inexperienced and they never underwent any programme to equip themselves. On the other hand, the Health Inspectors Grade-I are well qualified and they have already undergone the mandatory Trainings. However, by ignoring the basic difference and the qualification between Grade1B Health Inspector and Grade-1 Health Inspector, the second respondent has simply clarified that both are one and the same.

7. It is specifically stated in the counter affidavit that, against G.O.Ms.No.382 dated 12.10.2007, various writ petitions were filed and



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the Division Bench of this court dismissed the W.P.No.23893 of 2006 etc. batch on 23.07.2010; and against the above order dated 12.10.2007, Special Leave Petitions were filed. Further, as per the order of the Hon'ble Supreme Court made in SLP No.24492 of 24494 of 2010 in C.A.No.4483 to 4485 of 2013 dated, 07.05.2013, a revised seniority list of Health Inspector Grade-I was published, by the respondents vide order dated 25.10.1993, by placing the re-designated Health Inspector Grade-I (erstwhile Leprosy Inspector), w.e.f. 01.08.1997. It is further stated that, consequent to the above revision seniority list of Health Inspectors Grade-I, the members of the petitioner society have become juniors to the re-designated Health Inspectors Grade-I, since they were promoted as Health Inspectors Grade-I only during the year 2008. Accordingly, all the re-designated Health Inspector Grade-I, who are seniors in the respective Primary Health Centres are also being nominated as Birth and Death Registrars.

8. Therefore, it is clear that based on the order passed by the



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Hon'ble Supreme Court, a revised seniority list was published by the respondents, by placing the the members of the petitioner Society as well as the re-designated Health Inspector Grade-IB, in the appropriate places. Further, it is specifically stated in the counter affidavit that the members of the petitioner society have become juniors to the re-designated Health Inspectors Grade-I, since they were promoted as Health Inspectors Grade-I only during the year 2008. The contentions stated in the counter affidavit and the above revised seniority list published on 25.10.2013 were not disputed by the petitioner. Therefore, the grounds raised in the writ petition to quash the impugned letters dated 29.07.2009 and 18.08.2009 issued by the second respondent, are liable to be rejected and hence, this court is of the view that there is no merits in the writ petition and the same is liable to be dismissed.

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



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To

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.



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D. KRISHNAKUMAR, J.
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