



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE **M.M.SUNDRESH**

AND

THE HONOURABLE MRS.JUSTICE **S.ANANTHI**

W.A. (MD) Nos.527 to 531 of 2021

and

C.M.P. (MD) Nos.2329 to 2333 of 2021

- 1.State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.
- 2.The Director of Public Health & Preventive Medicine,
O/o Public Health and Preventive Medicine,
DMS Compound, Teynampet,
Chennai - 600 006.

: Appellants in all WAs

Vs.

P.Thangasamy	: Respondent in WA(MD) 527/2021
V.Marimuthu	: Respondent in WA(MD) 528/2021
S.K.Jeyachandran	: Respondent in WA(MD) 529/2021
R.Shunmugavel	: Respondent in WA(MD) 530/2021
R.Veeraputhiran	: Respondent in WA(MD) 531/2021

COMMON PRAYER: Writ Appeals filed under Clause 15 of the Letters Patent as against the common order dated 17.09.2020 made in W.P. (MD) Nos.11950, 11962, 11964, 11968, 11971 of 2020.

Prayer in WP(MD). 11956 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ forbearing the respondents from proceedings with any promotion to the post of Technical Personal Assistant (Grade I) without publishing the Final Seniority list and Panel of Block Health Supervisor fit for promotion to the post of Technical Personal Assistant (Grade I) and consequently to direct the 2nd respondent to consider the petitioners objection dt.17.6.2020 made to the provisional seniority list issued by the 2nd respondent in his proceedings in R.No.93755/MP2/S1/2010 dt.28.5.2020 in terms of GO Ms.No.278 Health and Family Welfare (L1) Department dt.13.6.2019 within the period that may be stipulated by this Court.



Prayer in WP(MD). 11962 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ forbearing the respondents from proceedings with any promotion to the post of Technical Personal Assistant (Grade I) without publishing the Final Seniority list and Panel of Block Health Supervisor fit for promotion to the post of Technical Personal Assistant (Grade I) and consequently to direct the 2nd respondent to consider the petitioners objection dt.17.6.2020 made to the provisional seniority list issued by the 2nd respondent in his proceedings in R.No.93755/MP2/S1/2010 dt.28.5.2020 in terms of GO Ms.No.278 Health and Family Welfare (L1) Department dt.13.6.2019 within the period that may be stipulated by this Court.

Prayer in WP(MD). 11964 of 2020 :

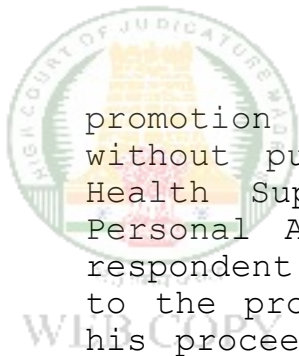
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ forbearing the respondents from proceedings with any promotion to the post of Technical Personal Assistant (Grade I) without publishing the Final Seniority list and Panel of Block Health Supervisor fit for promotion to the post of Technical Personal Assistant (Grade I) and consequently to direct the 2nd respondent to consider the petitioners objection dt.17.6.2020 made to the provisional seniority list issued by the 2nd respondent in his proceedings in R.No.93755/MP2/S1/2010 dt.28.5.2020 in terms of GO Ms.No.278 Health and Family Welfare (L1) Department dt.13.6.2019 within the period that may be stipulated by this Court.

Prayer in WP(MD). 11968 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ forbearing the respondents from proceedings with any promotion to the post of Technical Personal Assistant (Grade I) without publishing the Final Seniority list and Panel of Block Health Supervisor fit for promotion to the post of Technical Personal Assistant (Grade I) and consequently to direct the 2nd respondent to consider the petitioners objection dt.17.6.2020 made to the provisional seniority list issued by the 2nd respondent in his proceedings in R.No.93755/MP2/S1/2010 dt.28.5.2020 in terms of GO Ms.No.278 Health and Family Welfare (L1) Department dt.13.6.2019 within the period that may be stipulated by this Court.

Prayer in WP(MD). 11971 of 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ forbearing the respondents from proceedings with any



promotion to the post of Technical Personal Assistant (Grade I) without publishing the Final Seniority list and Panel of Block Health Supervisor fit for promotion to the post of Technical Personal Assistant (Grade I) and consequently to direct the 2nd respondent to consider the petitioners objection dt.17.6.2020 made to the provisional seniority list issued by the 2nd respondent in his proceedings in R.No.93755/MP2/S1/2010 dt.28.5.2020 in terms of GO Ms.No.278 Health and Family Welfare (L1) Department dt.13.6.2019 within the period that may be stipulated by this Court.

For Appellants : Mrs.J.Padmavathi Devi,
Special Government Pleader

For Respondents : Mr.M.Ajmal Khan,
Senior Counsel
for M/s.Ajmal Associates
[In all WAs]

COMMON JUDGMENT

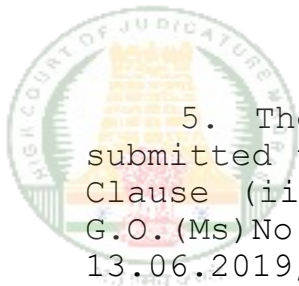
(Judgment of the Court was delivered by **M.M.SUNDRESH, J.**)

As all these appeals arise out of a common order, involving common and similar facts, they are taken up together and are accordingly disposed of by way of this common judgment.

2. The respondents herein have filed the writ petitions forbearing the appellants from proceeding with the promotion to the post of Technical Personal Assistant (Grade I) without publishing the final seniority list and panel of Health Supervisor to the promotional post of Technical Personal Assistant.

3. The sum and substance of the case, as projected by the respondents, is that they are entitled for the benefit of the Government Order passed in G.O.(Ms)No.278, Health and Family Welfare (L1) Department, dated 13.06.2019. Taking note of the earlier round of litigation and the Government Order having been passed, the learned Single Judge directed the appellants to look into the matter and consider the objections of the respondents.

4. The learned Special Government Pleader appearing for the appellants submitted that the same would be looked into, but, the aforesaid Government Order may not have an application to the case of the respondents. Clause (iv) of Paragraph No.15 of the said Government Order clearly states that any person recruited subsequent to the date of the Government Order in G.O.(Ms)No.1507, dated 16.08.1989, in which adhoc rules were framed for the post of Multipurpose Health Supervisor, will not be eligible for the benefit.



5. The learned Senior Counsel appearing for the respondents submitted that what is applicable to the case of the respondents is Clause (iii) of Paragraph No.15 of the Government Order passed in G.O.(Ms)No.278, Health and Family Welfare (L1) Department, dated 13.06.2019, which reads as under:

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"15. (iii). The Director of Public Health and Preventive Medicine is also permitted to pass suitable orders to the eligible seniors who have not filed Writ Petition before the Hon'ble Court after receiving representation with sufficient supporting documents for their claims and verification of all the records."

6. We are not inclined to go into the application of the Government Order passed in G.O.(Ms)No.278, Health and Family Welfare (L1) Department, dated 13.06.2019. What the learned Single Judge has done, is by merely asking the appellants to look into the objections of the respondents. Law is quite settled that a consent given on behalf of the appellants by the learned Government Pleader would not be binding. When once the matter is placed before the authorities to look into the issues afresh, it is for them to consider the same in the manner known to law.

7. In such view of the matter, we do not find any reason to entertain this appeal, except, we are clarifying that the appellants are expected to consider the objections of the respondents in accordance with law, by taking into consideration of the scope and application of the Government Order passed in G.O.(Ms)No.278, Health and Family Welfare (L1) Department, dated 13.06.2019.

8. In fine, all the writ appeals stand disposed of. No costs. Consequently, connected miscellaneous petitions stand closed.

Sd/-

Assistant Registrar(T & P)

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/ /2021

Sub Assistant Registrar(CS)

gk

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.

2.The Director of Public Health & Preventive Medicine,
O/o Public Health and Preventive Medicine,
DMS Compound, Teynampet, Chennai - 600 006.



W.A. (MD) Nos.527 to 531 of 2021

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-10251[F] dated 11/03/2021)

+1 CC to M/s.SPL GP (SR-10559[F] dated 11/03/2021)

W.A. (MD) Nos.527 to 531 of 2021
10.03.2021

sss (CO)

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