



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2021

CORAM:

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

W.P. (MD) No.14338 of 2021

and

W.M.P. (MD) Nos.11270 and 11272 of 2021

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M.Kesavan

... Petitioner

vs.

1.The State of Tamil Nadu,
represented by its Secretary,
Department of Health and Family Welfare,
Secretariat, Chennai - 9.

2.The Director,
Public Health and Preventive Medicine,
Teynampet, Chennai - 6.

3.The Director,
Rural Health Services,
Teynampet, Chennai - 06.

4.The Assistant Director,
Public Health and Preventive Medicine,
Meenakshinayakkan Patti, Dindigul.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.2538/A5/2019-3, dated 18.10.2019 on the file of the respondent no.4 and quash the same as illegal and consequently directing the respondents to bring the petitioner's services under time scale of pay with effect from 27.03.2015 in the light of the G.O.Ms.No.151, Social Welfare (M) Nutrition (SaNa4) Department, dated 16.10.2008 and G.O.Ms.No.325, dated 20.11.2012 on the file of the respondent no.1 with all consequential benefits within the time stipulated by this Court.

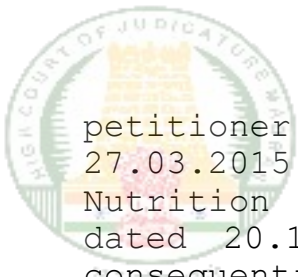
For Petitioner : Mr.T.Thirumurugan

For Respondents : Mr.S.Shanmugavel

Standing Counsel for Govt.

O R D E R

The prayer in this writ petition is for issuance of a writ of certiorarified mandamus to quash the order dated 18.10.2019, passed by the fourth respondent and to direct the respondents to bring the



petitioner's services under time scale of pay with effect from 27.03.2015 in the light of the G.O.Ms.No.151, Social Welfare (M) Nutrition (SN4) Department, Dated 16.10.2008 and G.O.Ms.No.325, dated 20.11.2012 on the file of the first respondent with all consequential benefits within the time stipulated by this Hon'ble Court.

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2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

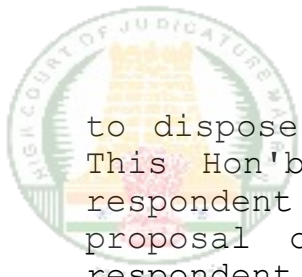
3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. The case of the petitioner is that he was appointed as Multipurpose Hospital worker on the basis of Employment Seniority at Chittaravu which comes under the control of Chinnallapatti Taluk Primary Health Center and he joined duty on 30.03.2013 as daily wage worker. According to the petitioner, G.O.Ms.No.151, Social Welfare (M) Nutrition (SN4) Department, Dated 16.10.2008 has been issued by the Government wherein it is stated that the persons who are physically challenged and working as Multipurpose Hospital Worker for more than two years on contract basis shall be eligible for bringing their services under the time scale of pay and regularization of their service. In light of the aforesaid Government Order, it is contended on behalf of the petitioner that having completed two years of service, the petitioner is entitled for fixation of time scale of pay as well as regularization of his service.

5. According to the petitioner, on completing of two years of service, he sent a representation on 04.04.2015 to the fourth respondent seeking to grant of Time-scale of pay, but there was no response.

6. It is the case of the petitioner that as physically challenged persons were working in all over Tamil Nadu in various Primary Health Centres as Multipurpose Hospital Workers, the second respondent has sent a proposal to the first respondent on 23.03.2018 seeking permission for the grant of Time-scale of pay to the physically challenged persons, who are working as Multipurpose Hospital Workers on contract basis, on their completion of two years of service, as per G.O.Ms.No.151, Social Welfare (M) Nutrition (SN4) Department, Dated 16.10.2008.

7. The petitioner states that as there was no response, he sent a representation to the first-respondent to dispose of the proposal dated 23.03.2018 sent by the second respondent and grant Time-scale of pay as per G.O.Ms.No.151, Social Welfare (M) Nutrition (SN4) Department, Dated 16.10.2008. As there was no action, he filed W.P. (MD).No.10885 of 2019, seeking a direction to the first respondent



to dispose of the proposal of second respondent, dated 23.03.2018. This Hon'ble Court by order dated 29.04.2019 directed the first respondent to consider the claim of the petitioner as per the proposal of second respondent dated 23.03.2018. As the first respondent has not complied with the said order, the petitioner issued a Contempt Notice to R1 on 23.08.2019.

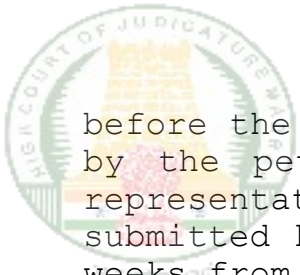
8. It is the case of the petitioner that while this being so, R4 has issued the impugned order dated 18.10.2019, rejecting the request of the petitioner on the ground that G.O.Ms.No.151, Social Welfare (M) Nutrition (SN4) Department, Dated 16.10.2008 is applicable only to those disabled persons who are working on contract basis, but not for the persons working on daily wages. The petitioner states that it is also stated in that order that Time-scale of pay could be considered for those workers who have completed 5 years of service, as per G.O.No.325, dated 20.11.2012 and that the said proposal is under process.

9. According to the petitioner, the impugned order is illegal. Therefore, W.P.(MD).No.10885 of 2019 was filed seeking disposal of the proposal dated 12.04.2018 sent by second respondent to first respondent

10. According to the petitioner, the said recommendation made by the second respondent ought to have been considered and the petitioner's request as per G.O.Ms.No.151, Social Welfare Nutrition Department dated 16.10.2008 ought to have been granted. It is seen from the impugned order that proposal dated 23.03.2018 to the first respondent is pending consideration and no final order has been passed. In such circumstances, the writ petitioner has filed the present Writ Petition challenging the impugned order passed by the fourth respondent.

11. On a perusal of the impugned order passed by the fourth respondent, it is very clear that the aforesaid communication is still pending before the first respondent Government. The petitioner claims that he has to be considered as per G.O.Ms.No.151, Social Welfare (M) Nutrition (SN4) Department, Dated 16.10.2008. The first respondent has not chosen to pass the final order. When the said proposal dated 23.03.2018 of second respondent is pending consideration before the first respondent, the petitioner has filed the present Writ Petition.

12. Therefore in view of the above said facts, this Court is of the view that the writ petitioner has to approach the first respondent and make his claim before the first respondent based on the proposal submitted by the second respondent on 23.03.2018. Therefore, at this juncture, this Court is not inclined to entertain the Writ Petition. Hence liberty is granted to the petitioner to make a representation to the first respondent and seek his remedy



before the first respondent. On such representation being submitted by the petitioner, the first respondent shall consider the said representation and take appropriate decision based on the report submitted by the second respondent, if it is submitted within two weeks from the date of receipt of a copy of this order.

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13. With the above direction, the Writ Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed. No order as to costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The Secretary,
State of Tamil Nadu,
Department of Health and Family Welfare,
Secretariat, Chennai - 9.

2.The Director,
Public Health and Preventive Medicine,
Teynampet, Chennai - 6.

3.The Director,
Rural Health Services,
Teynampet, Chennai - 06.

4.The Assistant Director,
Public Health and Preventive Medicine,
Meenakshinayakkan Patti, Dindigul.

+1 CC to M/s.T.THIRUMURUGAN, Advocate (SR-26437[F] dated 16/08/2021)

+1 CC to M/s.GP (SR-26353[F] dated 16/08/2021)

W.P.(MD) No.14338 of 2021

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