



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.11.2021**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**

W.P. (MD)No.4410 of 2018

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Thatheyu

...Petitioner

/Vs./

1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Fort St.George,
Chennai - 9.

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

3.The Director of Medical and Rural Health Services,
Teyanmpet,
Chennai - 6.

...Respondents

PRAYER:- Writ Petition - filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents herein to extend the benefit of G.O.(MS)No.268, Health and Family Welfare (N1) Department, dated 20/09/2010 and consider the petitioner for any suitable post based on the age and educational qualification relaxation with retrospective effect, within a stipulated time fixed by this Court.

For Petitioner : Mr.S.Veeranasamy

For Respondents : Mr.K.S.Selvaganesan
Standing Counsel for State

ORDER

The petitioner has sought a mandamus directing the respondents ie., the State, Director of Public Health and Preventive Medicine and Director of Medicine and Rural Health Services, R1, R2 and R3 respectively, to extend the benefit of G.O.268, Health and Family Welfare (N1) Department, dated 20.09.2010 and consider the petitioner for appointment to any suitable post relaxing age and educational qualification.



2.The respondents, in their common counter have stated as follows at paragraph 9:

"9.It is submitted that the petitioner herein has stated that he had worked as Field Assistant in the Non-Governmental Organisation viz. Centre for Social Development for a period of 3 years relating to helping the programme of health related activities from 1997 to March, 2000. It is submitted that the National Eradication Programme was integrated during the year 1997. Hence, the petitioner herein could not be worked in Leprosy Programme. Further, after eradication of Leprosy Programme, the petitioner herein had continued for a period of three years upto March, 2000 and therefore, it is clearly established that he could not be worked under Leprosy Programme. After completion of more than 18 years, he has filed this writ petition could not be entertained. In the writ petitions in W.P.No.33199 to 33206 of 2017 filed by one Thiru.K.Velmurugan and others before the Hon'ble High Court of Madras with a prayer to absorb him into Government Service, since he had worked in the Non-Governmental Organisation in Leprosy wing. In its common order dated 19.12.2017 in the said writ petitions, the Hon'ble High Court of Madras while dismissing the writ petition, has observed as follows:

"5.It is well settled law that the delay defeats justice and equities. Equity favours a vigilant rather than an indolent litigant and this being the basic tenet of law, the question of entertaining the prayer of the petitioners, who have left their services in the year 2002, seeking a direction to the respondents to absorb them in the services of the respondent department that too after a lapse of 15 long years does not arise in this matter.

6. Thus on the ground of laches, I do not find any merit in the writ petitions and accordingly, they are dismissed.""

3.Learned Counsel for the petitioner would draw my attention to an order passed by this Court in 2011 in W.P.(MD)No.46556 of 2006 and W.P.(MD)No.5160 of 2007 dated 02.02.2011, wherein this Court has permitted those petitioners, identically placed to the present petitioner, to file a representation before the authority, who was in turn, directed to consider the representation, in the light of G.O.268, Health and Family Welfare (N1) Department, dated 20.09.2010.

<https://hcservices.ecourts.gov.in/hcservices/>



4. Reference to this order is of no benefit to this petitioner, as what appears to have transpired in the matter is that pursuant to order dated 02.02.2011, the petitioners have filed representations, which have come to be rejected. The orders of rejection were challenged in W.P.(MD)No.33199 to 33206 of 2017 referred to in the counter of the respondents and by order dated 19.12.2017, the rejection has been upheld and the writ petitions dismissed.

5. In light of the aforesaid sequence of facts, the mandamus as sought for is not liable to be granted, as there is no merit in the claim made. This Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary to Government,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat,
Fort St. George,
Chennai - 9.
2. The Director of Public Health and Preventive Medicine,
Teynampet, Chennai - 6.
3. The Director of Medical and Rural Health Services,
Teyanmpet,
Chennai - 6.

+1 CC to M/s.SPL.GP (SR-33940[F] dated 10/11/2021)

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