



W.P.No.7060 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :29.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.7060 of 2014

Dr.D.Kanimozhi

... Petitioner

-Vs-

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

2. The Director of Medical and Rural
Health Services, Chennai - 600 006.

3. Dr.P.Yamuna,
Deputy Director of Medical Services (Leprosy),
Sivagangai, Sivagangai District.

... Respondents

(R3-dismissed vide Court order dt. 15.12.2014)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the 1st respondent in G.O.(D) No.777 Health and Family Welfare Department dated 18.7.2013 and the consequent order issued in G.O.(D) 46 Health and Family Welfare (A2) Department dated 10.1.2014 quash the same in so



W.P.No.7060 of 2014

far as the 3rd respondent is concerned and direct the 1st respondent to include the petitioners name in the said orders and consequently promote her as Deputy Director of Medical Services (Leprosy) with effect from 10.1.2014 and grant her all consequential benefits.

For Petitioner : Mr.P.Manoj Kumar

For Respondents : Mr.M.Bindran (for R1 and R2)
Additional Government Pleader.

ORDER

The Government Order issued in G.O.(D) No.777, Health and Family Welfare Department, dated 18.07.2013 and the consequential order issued in G.O.(D) No.46, Health and Family Welfare (A2) Department, dated 10.01.2014, are sought to be quashed in the present writ petition and further direction is sought for to include the name of the writ petitioner in the panel of the year 2012-13 and promote her to the post of Deputy Director of Medical Services (Leprosy), with effect from 10.01.2014. The petitioner was working as medical officer in the office of Deputy Director of Medical Services (Leprosy).

2. The learned counsel for the petitioner made a submission that the petitioner possessed the requisite qualification for promotion to the post of Deputy Director of Medical Services (Leprosy) at the time of



W.P.No.7060 of 2014

preparation of the panel. However, she has not completed five years of experience in the field of Leprosy or in the Leprosy Rehabilitation Home as on the crucial date ie. 15.03.2012. Therefore, the name of the writ petitioner was not included in the panel of the year 2012-13 for promotion to the post of Deputy Director of Medical Services (Leprosy).

3. The learned counsel for the petitioner mainly contended that the names of other ineligible persons were considered and included in the panel and they were promoted. Those doctors had no experience at all in the field of Leprosy Rehabilitation Homes. Therefore, the case of the petitioner ought to have been considered for inclusion of her name in the panel.

4. It is contended that when the names of zero experienced doctors in the field of Leprosy Rehabilitation Homes were considered to the post of Deputy Director of Medical Services (Leprosy), the petitioner who was possessing 4 ½ years of experience must have been considered for promotion to the said post.



W.P.No.7060 of 2014

5. The fact remains that both the petitioner and the other Doctors who were promoted were not possessing the requisite qualification contemplated under the rules, which was prevailing during the relevant point of time, when the panel was prepared. As per the ad-hoc rules, the qualification prescribed for the appointment to the post of Deputy Director of Medical Services (Leprosy) is as follows:

- "(a) Must have possessed MBBS Degree.
- (b) Must have worked in the field of Leprosy Rehabilitation Homes for a period of not less than five years.
- (c) Must have passed the Account Test for Executive Officers and the Department Test in Tamil Nadu Medical Code."

6. The petitioner admittedly, was not possessing the requisite qualification of five years of experience in the field of Leprosy Rehabilitation Homes. However, the grievances of the writ petitioner is that the persons included in Sl.Nos.9 to 14 in the panel of the year 2012-13, were also not possessing the requisite qualification of experience as per the ad-hoc rules in force. Thus, the case of the writ petitioner is to be considered.

7. The learned Additional Government Pleader made a submission



W.P.No.7060 of 2014

that no doubt the petitioner as well as the Doctors included in Sl.No.9 to 14 were not qualified and during the relevant point of time on account of dearth of qualified candidates, for promotion to the post of Deputy Director of Medical Services (Leprosy), the government took a decision to relax the rules and accordingly, the rule was relaxed in favour of the individuals and eligible persons were promoted. However, the name of the writ petitioner was not considered due to the fact that she is junior than the doctors who were considered for inclusion of their names in the panel.

8. The counter filed by the respondent reveals that in G.O.(D) 537, Health and Family Welfare Department dated 04.05.09, orders were issued approving the panel for the post of Deputy Director of Medical Services (Leprosy) for the year 2007-08 consisting the names of four medical officers. After that, no panels for the said post has been drawn for the panel years 2008-09 and 2010-11, due to the dearth of qualified hands as prescribed in the ad-hoc rules for the said post. However, the post is very much necessary to co-ordinate the Leprosy Programme in the Districts. Thus, it has been decided to fill up the post of Deputy Director of Medical Services (Leprosy) by relaxing the minimum period of



W.P.No.7060 of 2014

experience of 5 years in the field of Leprosy and to consider the Medical Officers in the Speciality of Dermatology working in Director of Medical and Rural Health Services and Director of Medical Education side by giving sufficient training to them in leprosy field in the State Level Review Meeting of the Deputy Directors of Medical Services (Leprosy) held on 22.12.2010.

9. Based on the above decision, the second respondent herein has called for the willingness from the Medical Officers who have completed 10 years of total service as on the crucial date of panel 2012-13 i.e. 15.03.2012 and having Post Graduate / Diploma in the speciality of Dermatology or Venerology (DD/DDVL/DV) without imposing the minimum period of 5 years experience in Leprosy field, since that specialities are solely related with skin including Leprosy division.

10. Thus, the Government took a decision to relax the ad-hoc rules in favour of the individuals and after seeking willingness from other suitable candidates, prepared the panel and promoted the persons to the post of Deputy Director of Medical Services (Leprosy). However, the case of the writ petitioner was not considered for relaxation of rules in



W.P.No.7060 of 2014

view of the fact that she is junior than that of the doctors who were included in the impugned panel. While granting the benefit of relaxation of rules, the seniority of the candidates are also to be followed. When the writ petitioner is not falling within the seniority for the purpose of considering her name, there is no infirmity in respect of the decisions taken by the authorities for considering the names for inclusion the panel for the year 2012-13.

11. This being the factum, the case of the petitioner has to be considered in accordance with her turn and based on the rules in force. Further, it is brought to the notice of this Court that the case of the petitioner was subsequently considered and she has been promoted to the post of Deputy Director of Medical Services (Leprosy).

12. Thus, with the above observations, the writ petition stands dismissed. No Costs.

29.06.2022

Index: Yes/No
Speaking/Non-speaking order.
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W.P.No.7060 of 2014

S.M.SUBRAMANIAM, J.

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To

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

2. The Director of Medical and Rural
Health Services, Chennai - 600 006.

W.P.No.7060 of 2014

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