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W.P.No.3034 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3034 of 2017
and
W.M.P.No.2966 of 2017

N.Girija

... Petitioner

Vs.

1.State rep. by the Secretary to Government,
Health Department,
Fort St. George,
Chennai – 600 009.

2.The Joint Secretary,
Health Department, Fort St. George,
Chennai – 600 009.

3.The Director,
Public Health and Preventive Medicine,
DMS Compound,
Chennai – 600 006.

4.The Deputy Director,
Health Services,
Thiruvallur.

5.The Block Medical Officer,
Govt. Primary Health Centre,
Ammaiyarkuppam,
Thiruvallur District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued vide Na.Ka.4186/Pa.Tho.4/2011 dated 03.08.2016 issued by the Deputy Director of Health Services, Thiruvallur District, the 4th respondent herein and R.No.417/A1/2016 dated 31.08.2016 issued by the Block Medical Officer, Public Health Services, Ammaiyarkuppam, Thiruvallur District the 5th respondent herein and to quash the same and to direct the respondents 1 to 5 to restore all consequential service and monetary benefits to the petitioner.

For Petitioner : Ms.S.S.Jothivani

For Respondents : Mr.R.P.Murugan Raja
Government Advocate

ORDER

The writ petition has been filed to call for the records pertaining to the impugned order dated 03.08.2016 issued by the Deputy Director of Health Services, Thiruvallur District and consequential order dated 31.08.2016 issued by the Block Medical Officer, Public Health Services, Ammaiyarkuppam, Thiruvallur District and to quash the same and to direct the respondents 1 to 5 to restore all consequential service and monetary benefits to the petitioner.



2. The petitioner states that she was appointed as Multi Purpose Health Worker on 08.07.1987 and her services were regularised from the initial date of appointment on 08.07.1987. The petitioner was transferred to Killiyanur Public Health Centre, Nagapattinam District from Nochili Public Health Centre, Tiruvallur District and on account of ill-health, she had not joined duty. The intervening period of absence was not regularised. The petitioner filed W.P.No.34040 of 2012 and this Court directed the authorities to consider the representation and pass orders. Accordingly, the Head of Department submitted a proposal to the Government for regularisation of intervening period of absence and the said period was regularised by the Government by issuing G.O.No.202, Health and Family Welfare (L1) Department dated 27.01.2017. Consequently, entries were made in the Service Register of the writ petitioner.

3. The petitioner was granted special grade since she had completed 20 years of service in the same post. Her special grade was granted on 21.02.2013 and the Government issued order in G.O.No.202 dated 27.01.2017. Since the files were pending before the Government, the Head of the Department passed the impugned order, cancelling the special grade



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already granted in favour of the writ petitioner. Based on the order of the Director of Public Health and Preventive Medicine, the Deputy Director of Health Services passed the impugned order in proceedings dated 03.08.2016 and consequential order was passed by the Block Medical Officer on 31.08.2016.

4. The fact remains that the petitioner had completed 20 years of service and the cancellation order was passed by the authorities, since the intervening period of absence of the writ petitioner was not regularised by the Government at the time of granting special grade benefits to the petitioner. However, soon after the grant of special grade to the writ petitioner on 21.02.2013, the intervening period of absence was regularised by the Government in G.O.No.202 dated 27.01.2017 and consequently, entries were made in the Service Register. Since the period of absence was regularised by the Government, there is no reason to approve the cancellation order passed by the respondents in the present case. The leave period was regularised and it is not in dispute that the petitioner has completed 20 years of service in the same post and thus, the petitioner is eligible for special grade and the benefit granted is to be restored in favour of



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the writ petitioner.

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5. Accordingly, the orders impugned passed by the Deputy Director of Health Services, Thiruvallur District in proceedings in Na.Ka.4186/Pa.Tho.4/2011 dated 03.08.2016 and the Block Medical Officer, Public Health Services, Ammaiarkuppam, Thiruvallur District in proceedings in R.No.417/A1/2016 dated 31.08.2016 are quashed and consequently, the respondents are directed to restore the special grade benefits already granted to the writ petitioner.

6. With the above direction, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

22.11.2022

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Index : Yes

Speaking order



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To

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S.M.SUBRAMANIAM, J.

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