



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)No.4446 of 2010

G.Thillai Chandra

... Petitioner

vs.

1.The Assistant Director,
Professional and Executive Employment Office,
Santhome High Road, Mylapore,
Chennai - 600 004.

2.District Employment Officer,
Professional and Executive Employment Office,
K.Pudur, Madurai - 7.

3.The Director,
Directorate of Indian Medicine and Homoeopathy,
Chennai -106.

... Respondents

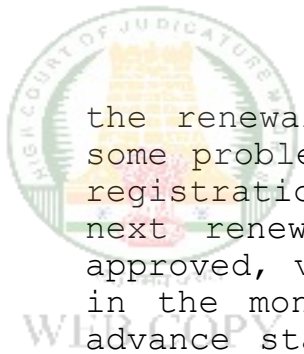
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent in அ.தி.மு.அ2/22721/09, dated 23.12.2009, to quash the same and consequently, to direct the respondent to renew the registration of the petitioner and to direct the second respondent to sponsor the name of the petitioner for the post of Siddha consultant.

For Petitioner : Mr.J.Anandkumar
For R1 : Mr.N.Ramesh Arumugam
Government Advocate (Civil side)

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed in அ.தி.மு.அ2/22721/09, dated 23.12.2009 and consequently to direct the respondent to renew the registration of the petitioner and to direct the second respondent to sponsor the name of the petitioner for the post of Siddha consultant.

2. The brief facts of the case are that the petitioner has completed Graduation in Sidha Medicine in the Government Sidha Medical College in the year 1989 and registered her name with the second respondent in the year 1990 in the Registration No. WPC/239/90. The petitioner has also completed Post Graduation in the year 1994. The petitioner was waiting for her employment for the post 20 years. The petitioner has periodically renewed the registration with the employment exchange in the year 1999. Then,



the renewal was extended up to 2002. While in 2002, there arise some problem for the petitioner's renewal. After best efforts, the registration was renewed by the respondents as special case and a next renewal was fixed in 2007. The petitioner's renewal was approved, vide proceedings, dated 29.12.2004 and instructed to renew in the month of December 2007. Since the petitioner was in the advance stage of pregnancy, she could not renew her registration. The pregnancy ended up in abortion and she was advised to take complete bed rest for few months. Hence, she could not apply in the month of December 2007. But she applied in the month of February 2008. The petitioner was under the bonafide relief, after applying to the respondent, that the registration would be renewed. Since it has been applied belatedly, the respondents have not considered her renewal.

3. In the meanwhile G.O.Ms.No.48, dated 06.05.2008, granted three months time from August 2009. On seeing the paper publication, the petitioner again submitted a reminder on 16.09.2009. The petitioner did not get any reply from the respondents. Therefore, the petitioner filed a Writ Petition in W.P.(MD)No.12122 of 2009 and this Court, vide order, dated 24.11.2009, directed the respondents to consider the petitioner's representation, dated 16.09.2009. The petitioner submitted the representation along with the order of this Court to the respondents. The Government after a long time decided to recruit Sidha Doctors during the month October 2009. Since the petitioner's name was not in the list, the petitioner's name was not sponsored. In the meantime, the petitioner received a communication from the first respondent requesting to forward a copy in the registered post acknowledgment receipt. In the said communication, it was further stated that after the entire records was produced, the process of renewal will be initiated. It was also stated the renewal is a special case and cannot be renewed. The contention of the petitioner is that the statement of the respondents are contradictory to each other and the reply is without any basis. The impugned order was passed without any opportunity to the petitioner.

4. Pursuant to the said communication, the second respondent forwarded a letter to the first respondent on 19.12.2009 itself. However, the respondents had once again rejected the representation, vide impugned order, dated 23.12.2009. Aggrieved over the same, the present Writ Petition is filed.

5. The learned Government Advocate appearing for the first respondent submitted that the petitioner had submitted a representation, dated 25.02.2008, i.e., prior to the G.O. and submitted a representation, dated 16.09.2009, after a lapse of so many months. Therefore, the petitioner has not submitted any representation within time to renew the employment exchange registration. However, the registration was renewed from 2014



onwards and now it is due on 31.08.2022. Now the petitioner is seeking to renew from the period from 2007 to 2008.

6. Heard Mr.J.Anandkumar, learned Counsel appearing for the petitioner and Mr.N.Ramesh Arumugam, learned Government Advocate appearing for the 1st respondent.

7. At the time of admission, this Court has granted an interim direction directing the third respondent to keep one post vacant. In the present case, there are two issues. One is the employment exchange registration and renewal. Admittedly, the petitioner registered in the year 1999 and the petitioner is bound to renew the registration. In the present case, the petitioner was not able to renew from the year 2007 to 2014. But thereafter, it was renewed from 2014 onwards. During the intervened period, there is no renewal and the petitioner could not get an opportunity to participate in the selection process which was conducted in the year 2009. Therefore, this Court is directing the second respondent to renew the intermittent period also and thereby the petitioner's seniority in the employment exchange is retained right from 1999 onwards. The respondents are directed to confer the original seniority, which was conferred in the year 1999.

8. The second issue is that the employment in the third respondent institute, i.e., Director of Indian Medicine, Tamil Nadu and this issue is a separate issue. The petitioner is having right to participate in the recruitment process but has no right to claim any appointment directly without participating in the recruitment process. In the earlier period, the seniority in employment exchange was followed for granting employment. The Hon'ble Supreme Court in Excise Superintendent Malkapatanam Vs K.B.N. Vishveswar Rao and others reported in 1996 (6) SCC 216 and in Union of India and others vs N. Hargopal and others, reported in 1987 [3] SCC 308 has directed the recruiting agency to issue paper publication and also affix notice in the prominent place and call for applications from the eligible candidates apart from the list from Employment Exchange. Thereafter, process the applications which was received from three modes of applications and after considering the merit of the candidates, the appointment order would be issued. In the present case the petitioner has not participated in the recruiting process and therefore the petitioner cannot claim any right to confer appointment order. Hence the second consequential prayer is liable to be dismissed. The petitioner is at liberty to participate in the selection process and if the petitioner is otherwise eligible the respondents shall consider the claim of the petitioner for appointment. Therefore, the second consequential prayer to grant appointment order by granting employment seniority is liable to be dismissed.

9. This Court is directing the 1st and 2nd respondents to confer seniority from in the year 1999 in the employment



exchange. As far as the consequential prayer to grant appointment order by granting employment seniority is dismissed.

10. With the above direction, the Writ Petition is disposed of. No costs.

WEB COPY

Sd/-

Assistant Registrar (Protocol)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

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 Assistant Director,
Professional and Executive Employment Office,
Santhome High Road, Mylapore,
Chennai - 600 004.
2. District Employment Officer,
Professional and Executive Employment Office,
K.Pudur, Madurai - 7.
3. The Director,
Directorate of Indian Medicine and Homoeopathy,
Chennai -106.

+1 CC to M/s.J.ANANDKUMAR, Advocate (SR-14363[F] dated 24/03/2022)

+1 CC to M/s.SPL GP (SR-14497[F] dated 25/03/2022)

W.P.(MD)No.4446 of 2010
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