



W.P.(MD)No.21697 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.10.2022
CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.21697 of 2016
and
W.M.P(MD).No.15513 of 2016

T.Baskaran

... Petitioner

Vs.

1.The Principal Secretary to the Government,
Health & Family Welfare Department,
Secretariat,
Chennai 600 009.

2.The Principal Secretary to the Government,
Education Department,
Fort St.George, Chennai 600 009.

3.The Director of School Education,
College Road, Chennai.

4.The Chief Educational Officer,
Office of Chief Educational Officer,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for
issuance of Writ of Certiorarified Mandamus, calling for the records relating to



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the impugned order of first respondent in Lr.No.36694/AB-1/2013-11 dated 13.03.2014 and the impugned order of the second respondent in Lr.No. 22615/Ni.Va.3(2)/2013-6 dated 03.06.2016 quash the same and consequently direct the respondents herein to absorb/regularize the petitioner's service from the date of his initial appointment with all monetary and service benefits within a reasonable time as may be fixed by this Court.

For Petitioner : Mr.P.Mahendran
For Respondents : Mr.V.Omprakash
Government Advocate (Civil Side)

ORDER

This writ petition is filed challenging the order passed by the first respondent in Lr.No.36694/AB-1/2013-11, dated 13.03.2014 and the impugned order of the second respondent in Lr.No.22615/Ni.Va.3(2)/2013-6, dated 03.06.2016

2. The facts of the case is that the petitioner was appointed as a Driver under the “Medical Check-up Scheme” for School Children. The appointment



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order, dated 26.06.1991, clearly states that the petitioner was appointed temporarily. The claim of the petitioner is that he was serving in the Education Department for the past 24 years and he has attained the age of superannuation and the petitioner was not regularized. Therefore, the petitioner has filed a writ petition in W.P.(MD).No.10350 of 2013 and this Court vide order, dated 28.06.2013 directed the respondents to consider and pass orders. In the impugned order, the respondents have referred the order passed by this Court and the petitioner's representation and the communication of the School Education Department, dated 12.10.2015, 16.02.2016, 06.04.2016 and 25.04.2016.

3. The learned counsel for the petitioner submitted that the member of the Planning Commission has recommended to absorb 22 persons working in Education Department under school children health check-up scheme by letter, dated 07.04.2009 and the minutes of the meetings is also enclosed. The petitioner also relied on the recommendation submitted by the Director of the Health Department in Na.Ka.No.63912/SuKaNi/S/4/2009, dated 14.08.2012, wherein, the petitioner's name is in serial No.10. In the said recommendation letter, the Director Health Department has stated that the Government shall relax the



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educational qualification, age relaxation and also other relaxation where ever it is necessary and thereafter to consider the relaxation. The petitioner submitted that these two recommendations were not considered by the Government, while passing the impugned order. Further, the petitioner placed the order dated 16.08.2022 of this Court passed in W.P(MD).Nos.13953, 13995 & 14062 of 2014 wherein a positive direction was issued to regularize the service. However, the respondents have passed the impugned order stating that the petitioner was appointment without following the rules of recruitment. Moreover, the petitioner was appointed under the scheme.

4. This Court is of the considered opinion that the first respondent has not considered the recommendation of the Director of the Health Department in Na.Ka.No.63912/SuKaNi/S/4/2009, dated 14.08.2012. Hence this Court directs the 1st respondent to consider the case of the petitioner in the light of the recommendation of the Director of the Health Department in Na.Ka.No. 63912/SuKaNi/S/4/2009, dated 14.08.2012.



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5. With the above direction the writ petition stands disposed of. No costs.

Consequently, connected miscellaneous petition is closed.

10.10.2022

Index : Yes / No

Internet : Yes

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To

1. The Presiding Officer,
The Employees' Provident Funds,
Appellate Tribunal,
New Delhi.
2. The S.M.T.M. Trade Centre,
Kalyani Towers,
(Opposite Bus Stand) Surandai,
Tirunelveli-627 859.



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S.SRIMATHY, J

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Order made in
W.P.(MD)No.21697 of 2016
and
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