



W.P.No.1044 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE J. SATHYA NARAYANA PRASAD

W.P.No.1044 of 2020
and MP.No.1251 of 2020

S. Elango

... Petitioner

Vs.

1. State of Tamil Nadu
Rep.by its Secretary
Health & Family Welfare Department
Secretariat,
Chennai 600 009.

2. The Director
Public Health & Preventive Medicine
DMS Compound
Chennai 600 006

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, seeking Writ of Mandamus directing the respondents to regularise the petitioner's service as Health Inspector Grade – I with retrospective effect from 06.04.1990 and consider him for promotion of Personal Assistant to Deputy Director of Health Services in the department of the 2nd respondent within a period of stipulated time as fixed by this Court by implementing the judgment of the Hon'ble Supreme Court passed in Civil Appeal No.6660 of 2011.



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For Petitioner : Mr.R.Ezhilarasan
For Respondents : Mrs.C.Meera Arumugam
Additional Govt.Pleader

ORDER

The petitioner has filed the above writ petition praying for a Writ of Mandamus directing the respondents to regularise the petitioner's service as Health Inspector Grade – I with retrospective effect from 06.04.1990 and consider him for promotion of Personal Assistant to Deputy Director of Health Services in the department of the 2nd respondent within a period of stipulated time as fixed by this Court by implementing the judgment of the Hon'ble Supreme Court passed in Civil Appeal No.6660 of 2011.

2. The facts of the case in a nutshell:-

The petitioner was appointed as Health Assistant (now redesignated as Health Inspector Grade II) Govt. Primary Health Centre, Thottiyam on 06.04.1990 and was regularised as Health Inspector Grade I on 26.01.2006. Thereafter, he has been promoted as Block Health Supervisor on 01.05.2010. But as per latest judgment of Hon'ble Supreme Court of India in Civil Appeal No.6660 of 2011, the petitioner ought to have been regularised as Health Inspector Grade I on 06.04.1990 with retrospective effect. Hence he gave a



representation to the respondents on 28.09.2019. Since there was no response, the petitioner has come forward with the present writ petition.

3. The learned counsel for the petitioner has relied upon the decision of the Hon'ble Supreme Court of India in Civil Appeal No.6660 of 2011 dated 25.02.2015, the relevant paragraph reads as follows:-

“ 9. Aggrieved by the order so passed by the High Court, the appellants are before us in these appeals. The counsel for appellants would contend that, the case of D.Dhanasekaran, on which reliance has been placed, stands on a different footing, since he was initially appointed as Health Inspector possessing requisite qualification i.e., passed the Sanitary Inspector Certificate Course. He would further contend that the respondents could not have been promoted to the post of Health Inspectors retrospectively since they were not appointed on the said post at the relevant point of time”.

4. The learned Special Government Pleader appearing for the respondents also fairly submitted that an order was passed by the Hon'ble Supreme Court of India on 25.02.2015 dismissing the appeal filed by the respondent. Aggrieved by the order passed by the Hon'ble Supreme Court of India, the Government has preferred a Review Petition with a delay of 1256 days and the Hon'ble Supreme Court of India was pleased to dismiss the



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condone delay application and as well as the Review Petition 3521-3721 of 2018 by order dated 12.12.2018, hence the order has reached the finality.

5. Heard both sides and perused the materials available on record.

6. In view of the ratio laid down by the Hon'ble Supreme Court of India, this Court directs the respondents to regularise the service of the petitioner as Health Inspector Grade – I with retrospective effect from 06.04.1990 and consider him for promotion to the post of Personal Assistant to Deputy Director of Health Services in the 2nd respondent department within a period of eight weeks from the date of receipt of a copy of this order.

7. The writ petition is disposed of with the above direction and observation. No costs. Consequently connected miscellaneous petition is also closed.

27.07.2023

dpq
Index : Yes/No
Speaking Order : Yes/No



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J. SATHYA NARAYANA PRASAD, J.

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