



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.13095 of 2022

S.Ponnusamy

... Petitioner

Vs.

1.The State rep. by
Its Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.

2.The Director of Public Health and Preventive
Medicine, Chennai – 600 006.

... Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to direct 2nd respondent to issue necessary modification to Proceedings R No. 60456/MP2/S1/2014 dated 22.12.2014 with placing the name of petitioner with appropriate Serial Number and Seniority Number at appropriate place in the list of the individuals promoted as Block Health Supervisor retrospectively with effect from 27.08.1996 as per the said G.O.Ms.No.206 Health dated 14.07.2014 the date on which their Junior Thiru.B.Dharmalingam was promoted as Block Health Supervisor and whose pay was fixed at Rs.7,500/- in the scale of pay of Rs.5,900-200-9900 and also directing the 1st respondent to cause fixation of pay of the petitioner in the said scale of pay with payment



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of arrears pay with interest at the rate of 12% annually till the date of payment to the petitioner to meet both the ends of justice.

For Petitioner : Mr.A.S.Palanisamy

For Respondents : Mrs.V.Yamuna Devi
Special Government Pleader

ORDER

The petitioner herein had retired as Health Inspector Grade-I on 30.06.2001 from the respondent / Department. On the ground that his retired fellow junior colleagues have been retrospectively promoted as Block Health Supervisor, after issuance of G.O.Ms.No.206, Health Department dated 14.07.2014, he now seeks for retrospective promotion to the post of Block Health Supervisor, with effect from the date on which his junior Thiru.B.Dharmalingam was promoted through G.O.Ms.No.206, Health Department dated 14.07.2014.

2. The learned counsel for the petitioner submitted that as per G.O.Ms.No.206, Health and Family Welfare Department dated 14.07.2014, the Government has ordered for grant of retrospective promotion to the post of Block Health Supervisor for the 380 Basic Health Inspectors, who were in



service as on 27.08.1996 and 62 Health Assistants also, notional with effect from 27.08.1999 i.e., the date on which his Junior Thiru.B.Dharmalingam was promoted as Block Health Supervisor and therefore, the petitioner is also entitled for notional promotion.

3. Per contra, the learned Special Government Pleader appearing on behalf of the respondents submitted that there are severe laches on the part of the petitioner herein in having approached this Court after 20 years and therefore, the writ petition is liable to be dismissed.

4. In the counter affidavit filed by the respondents herein, it is stated that retrospective promotion orders have been issued to the Basic Health Inspectors as Block Health Supervisors with effect from 27.08.1996, on par with their junior Thiru.B.Dharmalingam by order dated 22.12.2014 based on the representations received from the left out individuals for non-inclusion of the names in the seniority list. The Department has also included their names in the seniority list based on the provisional inter-se-seniority list of Multipurpose Health Supervisors released in the year 1994.



5. In view of this categorical admission on the part of the respondents herein and by also taking into account of the Government order in G.O.Ms.No.206 dated 14.07.2014, which specifically orders that such notional promotion can be given to the retired employees notionally on the date on which their junior Thiru.B.Dharmalingam, this Court is of the view that the relief sought for in the present writ petition deserves consideration.

6. With regard to the objection raised by the learned Special Government Pleader on the laches is concerned, the denial of the retrospective promotion to the petitioner would be a continuous cause of action. More so, when the respondents themselves have subsequently passed an order in G.O.Ms.No.206 dated 14.07.2014 recognising the right of the petitioner to be retrospectively promoted on par with his junior and by also taking into account that the names of the similarly placed individuals have been included notionally in the seniority list and promotions have also been given, the defence of laches taken by the respondents does not hold good.

7. Accordingly, there shall be a direction to the respondents herein to



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pass appropriate orders, granting notional promotion to the petitioner herein as a Block Health Supervisor with effect from 27.08.1996 and thereby re-fix his pay scale. Consequently, the 1st respondent herein shall also send revised pension proposals to the concerned Pensionary Authorities for re-fixation of petitioner's pensionary benefits. Such orders shall be passed at least within a period of four (4) weeks from the date of receipt of a copy of this order. It is hereby made clear that the petitioner will not be entitled for the arrears of the revised pay scale from 27.08.1996 till the date of his superannuation.

8. With the above directions, this Writ Petition stands allowed. No costs.

18.12.2023

Jeni
Index : Yes
Neutral Citation : Yes
Speaking order



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To

1.The Secretary to Government,
The State
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.

2.The Director of Public Health and Preventive
Medicine, Chennai – 600 006.



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M.S.RAMESH, J.

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