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W.P Nos.19469 & 19465 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2023

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.19469 & 19465 of 2020

and

WMP.Nos.24060 & 24066 of 2020

N.Seenuvasan ... Petitioner in WP.No.19465 of 2020

G.Arul Sio Gopal ... Petitioner in WP.No.19469 of 2020

Vs.

1. The State of Tamil Nadu represented
by its Secretary, Health and Family
Welfare Department Chief Secretariat,
St. Fort George, Chennai - 600009.
2. The Director of Public Health and
Preventive Medicine, D.M.S. Campus,
Teynampet No. 359,
Anna Salai, Chennai – 600006.
3. The Joint Director (Nala Panigal)
Rural Health Service and Medicine,
Tiruvannamalai,
Tiruvannamalai District – 606601.



W.P Nos.19469 & 19465 of 2020

4. The Deputy Director Health Service,
Office of Collectorate Tiruvannamalai,
Tiruvannamalai District-606604

5. The Medical Officer Government
Hospital Upgraded Primary Health Centre,
Chetpet, Chetpet Taluk,
Tiruvannamalai District-606801 ... Respondents in both WPs.

Prayer in WP.No.19465: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to regularise the petitioner service with back wages and with retrospective effect from dated 06.01.2020, after getting service particulars from 3 to 5 respondents and considering the petitioner representation dated. 03.11.2020.

Prayer in WP.No.19465: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st and 2nd respondents to regularise the petitioner service with back wages and with retrospective effect from dated 11.07.2007 after getting service particulars from 3rd to 5th respondents and considering the petitioner representation dated. 03.11.2020.

In both Writ Petitions:

For Petitioner : Mr.G.Mutharasu

For Respondents : Mr.T.Chezhiyan,



W.P Nos.19469 & 19465 of 2020

Additional Government Pleader

COMMON ORDER

These Writ Petitions have been filed seeking the issuance of a Writ of Mandamus to direct the 1st and 2nd respondents to regularise the petitioners service with back wages and with retrospective effect from dated 06.01.2020 and 11.07.2007 respectively, after getting service particulars from 3rd to 5th respondents and considering the petitioners representation dated 03.11.2020.

2. Heard, Mr.G.Mutharasu learned counsel for the petitioner and Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents and perused the materials available on record.

3. The petitioners who had been working as a sanitary worker under the 5th respondent. The petitioner in WP.No.19465 of 2020 joined as Sanitary Worker in the year 2010 and the petitioner in WP.No.19469



W.P Nos.19469 & 19465 of 2020

of 2020 joined as Sanitary worker in the year 2007 in NRHM RCH Scheme. They have been working in the Primary Public Health Government Hospital converted as Government Hospital, thereafter it is called as Government Hospital Primary Health Centre and continued to work in the same hospital as NRHM RCH (scheme) as Sanitary Worker. Till date the petitioners have not been regularised , hence both the petitioners have given representation on 03.11.2020 to the respondents 1 and 2 to regularise their services as sanitary workers with back wages with retrospective effect from dated 06.01.2020 and 11.07.2007 respectively, after getting service particulars from 3rd to 5th respondents. Hence these Writ petitions.

4. Mr.G.Mutharasu, the learned counsel for the petitioner submitted that the petitioners are entitled to the benefits of G.O.Ms. No.22 Personnel and Administrative Reforms Department dated 28.02.2006. The said G.O.Ms. No.22 Personnel and Administrative Reforms Department dated 28.02.2006, was issued to regularise the services of persons who were working on temporary basis on their



W.P Nos.19469 & 19465 of 2020

completion of ten years of service in all government department /offices.

In support of his contention he relied the order of this Court in W.P.Nos.14199, 26778 & 27296 of 2017 batch dated 12.01.2022 and the relevant paragraph is extracted as hereunder:

“62. As per G.O.Ms.No.22, Personnel and Administrative Reforms (F)Department dated 28.02.2006, wherein it is stated that only full time daily wage employees were directed to be regularized on completion of 10 years of continuous service as on 01.01.2006 and G.O.Ms.No.47 School Education (R1) Department, dated 02.03.2012 wherein it is stated that as the surrendered non teaching posts of 5014 of basic service is not been filled up for along time on considering this aspect, now intended to create the posts of Sweeper/watchman and equivalent to 5000 are being dissolved as it has been orders, as there is no other vacant posts.”

4.1. It is further submitted by the learned counsel for the petitioner that without going into merits of the case the representations made by the petitioners, the respondents can be directed to consider and dispose



W.P Nos.19469 & 19465 of 2020

the representations made by the petitioners in accordance with law.

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5. Per contra, Mr.T.Chezhiyan, learned Additional Government Pleader for the respondents submitted that the post of sanitary workers were purely on temporary basis and therefore the petitioners cannot claim the same. The petitioners were not appointed against any of the regular vacancy. The petitioners employment was not sponsored through employment exchange by following the rule of reservation, which is mandatory for appointing a candidate in a regular basis and his educational qualification is 8th pass. As the National Health Mission comes under the Government of India and funds are also regulated by the Mission Director, National Health Mission, Chennai-06, once the Mission is completed, there is no scope for claiming the relief. The learned counsel further submitted that G.O.Ms.No.22, Personnel and Administrative Reforms (F)Department dated 28.02.2006 will not come to the rescue of the petitioner and hence, the petitioners prayer cannot be entertained.



W.P Nos.19469 & 19465 of 2020

6. Considering the facts and circumstances of the case and the limited request made by the learned counsel for the petitioner, I am inclined to issue direction to the respondents 1 and 2 to consider the representations of the petitioners dated 03.11.2020 and pass orders in the light of the order passed in in W.P.Nos.14199 batch, dated 12.01.2022, and in accordance with law within a period of 6 weeks from the date of receipt of a copy of this order.

With the above direction, these Writ Petitions are disposed. No costs. Consequently, connected miscellaneous petitions are closed.

22.11.2023

Index : Yes /No
Internet : Yes/No
jrs



W.P Nos.19469 & 19465 of 2020

WEB COPY

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WEB COPY



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R.N.MANJULA, J.

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