



W.P.(MD) No.1199 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.1199 of 2021
and
W.M.P.(MD) No.1033 of 2021

R.Murugan

... Petitioner

Vs.

1.The Secretary to Government,
Health & Family Welfare Development,
Fort St. George, Chennai.

2.The Director,
Indian Medicine and Homeopathy,
Arumbakkam, Chennai-106.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings made in L.Dis.No.2402/E1/2/2020 dated 14.10.2020 on the file of the 2nd respondent and quash the same and direct the 2nd respondent to regularize the petitioner's services from the date of the petitioner's original appointment i.e., from 13.07.1982.



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For Petitioner : Mr.V.Kannan
For Respondents : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The petitioner herein was initially claimed to have been appointed as Assistant Medical Officer (Siddha) on 24.06.1982 on temporary basis at Primary Health Centre, Vadakankulam, Tirunelveli District by the 2nd respondent and thereafter, pursuant to an exam conducted by Tamil Nadu Public Service Commission, the petitioner was appointed in the same post on 03.03.1984. It is also the further case of the petitioner that his services were regularised with effect from 02.03.1986 and he was promoted to the post of District Siddha Medical Officer on 27.08.2011 and thereafter, he retired from service on 30.05.2012 on attaining the age of superannuation.

2. It is the further case of the petitioner that thereafter, the petitioner having come to know that certain Assistant Medical Officers (Siddha), Assistant Medical Officers (Unani), etc., who were appointed on



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temporary basis, were subsequently regularised from the date of their initial appointment by issuing G.O.(Ms) No.442, Health and Family Welfare Department, dated 12.09.1997, submitted representations from time to time and finally on 21.11.2016 requesting for regularisation of his services with effect from the date of his initial appointment, i.e., with effect from 24.06.1982. Complaining inaction on the said representation, the petitioner approached this Court by filing W.P.(MD) No.759 of 2019 and this Court by an order dated 13.01.2020, directed Respondent No.2 to consider the said representation and to pass orders thereon. Pursuant thereto, the 2nd respondent issued the impugned proceedings, dated 14.10.2020 rejecting the claim of the petitioner for regularisation from the date of his initial appointment by placing reliance on proviso to GR 23(a)(i) of Tamil Nadu State and Subordinate Service. It is aggrieved by the said order, the petitioner approached this Court by filing the present writ petition.

3. From the case as set up by the petitioner, it is evident that the services of the petitioner were regularised in the post of Assistant Medical Officer (Siddha) as early as on 02.03.1986 and thereafter, he was promoted as



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District Siddha Medical Officer on 27.08.2011 and the petitioner retired from service on 30.05.2012. While the petitioner was in service, the petitioner never raised any objection or claimed for regularisation of his service from the date of his initial appointment. But, it is only after his retirement in the year 2012, the petitioner claims to have made a claim for such regularisation by claiming parity on par with the persons, who were regularised under G.O. (Ms) No.442, dated 12.09.1997. Though he claims to have made a claim immediately after his retirement, there is nothing on record to show that the petitioner has made any such claim till 21.11.2016 on which date he stated to have submitted his last representation. Thus, from 1982 to 2016, i.e., almost for 34 years, the petitioner has not claimed for regularisation from the date of his initial appointment on temporary basis. Thus, the claim of the petitioner is liable to be rejected on the ground of delay and laches alone.

4. Further, from the perusal of the impugned order, it is noticed that the claim of the petitioner was duly considered for regularisation and in terms of proviso to GR 23(a)(i), his services were regularised after the date of commencement of probation of the junior most person already in service as



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on the date of regularisation of the services of the petitioner. There is nothing that is brought to the notice of this Court to say that such a course adopted by Respondent No.2 is not in accordance with law.

5. Further, as seen from G.O.(Ms) No.442, dated 12.09.1997, the said Government Order was issued pursuant to an order passed by the Tamil Nadu Administrative Tribunal and in the process of implementing the said order, the beneficiaries under the said Government Order were all regularised from the date subsequent to the date of regularisation of the petitioner and no way, the interests of the petitioner herein are affected by the said Government Order in G.O.(Ms) No.442, dated 12.09.1997.

6. The only ground on which the petitioner is making a claim is that the services of the beneficiaries under G.O.(Ms) No.442, dated 12.09.1997 were regularised from the date of initial appointment on temporary basis. That said fact by itself does not confer any right on the petitioner and the case of the petitioner was considered on its own merits and it was rejected.



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7. In the light of the above, this Court does not find any merit in the writ petition and the same is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
Internet : Yes

ABR



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MUMMINENI SUDHEER KUMAR, J.

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