



W.P.(MD).No.26283 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 19.02.2024

ORDER PRONOUNCED ON : 23.02.2024

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.26283 of 2019
and W.M.P(MD).No.22687 of 2019**

R.Subramaniapillai

....Petitioner

Vs

1.The State of Tamil Nadu
Represented by its Principal Secretary to Government
Health and Family Welfare Department
Fort.St.George
Chennai 600 009

2.The Director of Public Health and Preventive Medicine
Office of the Director of Public Health and Preventive Medicine
Chennai 600 006

3.The Deputy Director of Health Services
Nagercoil
Kanyakumari District

....Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorarified Mandamus to call for the records from the file
of the second respondent vide R.No.82522/MP2/2015-S2 dated 12.06.2019
and quash the same as an illegal and devoid of merits and consequently direct



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the respondent to award Selection Grade in the post of Block Health Supervisor from the date of petitioner's notional promotion 27.08.1996 in the post of Block Health Supervisor and award Special Grade on completion of ten years service in the Block Health Supervisor on 27.08.2006 and accordingly revise the scale of pay and disburse all monetary with all attendant benefits and quash the same as devoid of merits and consequently direct the respondent to reinstate the petitioner into service with all service benefits.

For Petitioner : Mr.Raja.Karthikeyan

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

The instant writ petition has been filed by a retired employee of Department of Public Health and Preventive Medicine challenging the order dated 12.06.2019 passed by the second respondent herein wherein the request of the petitioner for conferment of Special Grade and Selection Grade in the post of Block Health Supervisor was rejected.

2.Facts leading to the filing of the writ petition are as follows:

(i)The petitioner herein was originally appointed as a Health Assistant on 07.04.1979 and the said post was re-designated as Health Inspector and he



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was appointed as a Health Inspector with effect from 04.11.1988. The post of Health Inspector was re-designated as Multipurpose Health Supervisor on 04.11.1988. The petitioner was later promoted as a Block Health Supervisor on 27.03.2003 with retrospective effect from 27.08.1996. The petitioner was conferred with Selection in the grade of Block Health Supervisor on 26.08.2006. The petitioner was appointed as a Technical Personal Assistant by transfer of service with effect from 13.04.2008.

(ii)The petitioner attained superannuation on 30.04.2014. After retirement, the petitioner has addressed a representation to the respondent authorities on 30.06.2015 seeking conferment of Special Grade in the post of Block Health Supervisor and the Selection Grade in the post of Technical Personal Assistant by counting the services rendered by him in the lower post and revised the pay with periodical increment. Since the said representation was pending, the petitioner along with two others had filed W.P.(MD).No. 15434 of 2015 before this Court. This Court was pleased to dispose of the said writ petition on 20.02.2019 with a direction to the Director of Public Health and Preventive Medicine to pass orders within a period of six weeks after affording sufficient opportunity of hearing to the writ petitioner. In compliance with the said order, the present impugned order has been passed by the second respondent herein on 12.06.2019 rejecting the request of the petitioner. These facts are not in dispute.



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3.Though the petitioner had made a representation to the second respondent for conferment of Selection Grade in the post of Technical Personal Assistant, the prayer in the present writ petition is restricted to award of Selection Grade and Special Grade in the cadre of Block Health Supervisor with effect from 27.08.1996 and 27.08.2006 respectively. There is no reference about any conferment of Selection Grade or Special Grade in the post of Technical Personal Assistant in the present writ petition. Therefore, this Court proceeds to consider the grievance of the writ petitioner only with regard to the fact whether he is entitled to get a Selection Grade and Special Grade in the post of Block Health Supervisor or not.

4.For easier appreciation, the prayer in the writ petition is extracted as follows:

“This Hon'ble Court may be pleased to issue a Writ of Certiorarified Mandamus to call for the records from the file of the second respondent vide R.No.82522/MP2/2015-S2 dated 12.06.2019 and quash the same as an illegal and devoid of merits and consequently direct the respondent to award Selection Grade in the post of Block Health Supervisor from the date of my notional promotion 27.08.1996 in the post of Block Health Supervisor and award Special Grade on completion of ten years service in the Block Health Supervisor on 27.08.2006 and accordingly revise the scale of pay and disburse all monetary with all attendant benefits and quash the same as devoid of merits



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and consequently direct the respondent to reinstate the petitioner into service with all service benefits”

5. According to the learned counsel appearing for the petitioner, the petitioner was promoted as a Block Health Supervisor on 27.03.2003 with retrospective effect from 27.08.1996. As per G.O.Ms.No.210, Personnel and Administrative Reforms (Per.S) Department, dated 11.03.1987, the services in the Selection Grade of the lower post shall be counted for conferment of Selection Grade in the promoted post provided that the Selection Grade Scale of the lower post is identical to the ordinary grade of the higher post. The petitioner had further contended that the pay band of Multipurpose Health Supervisor in the Selection Grade is Rs.5300-150-8300. When he was promoted as Block Health Supervisor, the ordinary grade of pay in the said promoted post was Rs.5300-150-8300. Therefore, the said Government Order is squarely applicable to him and his service as Selection Grade Multipurpose Health Supervisor should be clubbed together with services in the promoted post namely Block Health Supervisor and the Selection Grade should have been conferred in the cadre of Block Health Supervisor with effect from 27.08.1996. However, the Selection Grade in the cadre of Block Health Supervisor has been awarded to him only on 26.08.2006.

6. The learned counsel for the petitioner had further contended that the authorities have not properly appreciated the said Government Order and they



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have erroneously rejected the request of the petitioner as if the petitioner has sought for same Selection Grade and Special Grade in the post of Technical Personal Assistant. Hence, he prayed for allowing the writ petition.

7.Per contra, the learned Government Advocate appearing for the respondents had pointed out that the petitioner had originally sent a representation to the second respondent on 03.06.2015 only seeking conferment of Selection Grade in the post of Technical Personal Assistant. Therefore, in the impugned order, the said request has rightly been rejected by the authorities. The petitioner has given up the said grievance and has sought for a new prayer in the present writ petition seeking conferment of Selection Grade and Special Grade in the cadre of Block Health Supervisor. He had further contended that the petitioner herein was promoted as Block Health Supervisor on 27.03.2003 with retrospective effect from 27.08.1996. Therefore, the Selection Grade cannot be conferred on the date of his promotion itself namely from 27.08.1996. On completion of ten years namely on 26.08.2006, the Selection Grade has been conferred upon the writ petitioner in the cadre of Block Health Supervisor. Therefore, the petitioner cannot seek any further conferment of Selection Grade or Special Grade in the cadre of Block Health Supervisor. Hence, he prayed for sustaining the impugned order and to dismiss the writ petition.



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8.I have considered the submissions made on either side and perused the material records.

9.The request of the writ petitioner for conferment of Selection Grade and Special Grade in the cadre of Block Health Supervisor is solely based upon G.O.Ms.No.210, Personnel and Administrative Reforms (Per.S) Department, dated 11.03.1987. Paragraph No.2 of the said Government Order is extracted as follows:

“2.The Government after careful examination accept the recommendation of the One Man Committee and direct that the service in the Selection Grade of the lower post shall be counted for the Selection Grade in the promoted post provided that the Selection Grade scale of the lower post is identical to the ordinary grade of the higher post and that the concession be allowed only at the first promotion level. Government also direct that in the case of posts with different grades one who had put in 10 years or more of service in the lower post (eg.GradeII) shall be advanced to the next higher post (ie. Grade I) under the scheme of flexible complementing and one with a service of 20 years or more be advanced to Selection Grade of the higher post (ie. Grade I) wherever it has already been provided.”

10.As per the above referred Government Order, if a member of service had been conferred with Selection Grade in the lower post and thereafter, he was promoted, the services of the said member in the Selection Grade of the



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lower post have been clubbed together in the promoted post for conferment of Selection Grade in the promoted post. However, for invoking the said G.O, the following conditions have to be fulfilled.

(i)The Selection Grade salary of lower post should be identical to the ordinary grade salary of higher post.

(ii)The concession can be allowed only at the first promotion level.

11.Now let us consider the service condition of the petitioner. In the light of the above said Government Order. The petitioner was appointed as a Health Assistant/Health Inspector on 07.04.1979. He was conferred with Selection Grade in the said cadre on 07.04.1989. The petitioner was promoted as a Block Health Supervisor on 27.03.2003 with retrospective effect from 27.08.1996. The pay scale received by the writ petitioner as Selection Grade Health Inspector/Multipurpose Health Supervisor is Rs.5300-150-8300. On being promoted as Block Health Supervisor, the ordinary grade of pay in the said promoted post was Rs.5300-150-8300. Therefore, it is clear that the Selection Grade pay of the lower post namely Multipurpose Health Supervisor is identical to the ordinary grade of promoted post namely Block Health Supervisor. Hence, as per G.O.Ms.No.210, Personnel and Administrative Reforms (Per.S) Department, dated 11.03.1987, the services of the petitioner as Selection Grade Multipurpose Health Supervisor should



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be clubbed with ordinary grade of Block Health Supervisor so as to confer selection in the cadre of Block Health Supervisor.

12.The petitioner has been conferred with Selection Grade in the cadre of Multipurpose Health Supervisor on 07.04.1989. If the services of the petitioner in the Selection Grade and Multipurpose Health Supervisor is clubbed with the services of the ordinary grade of Block Health Supervisor, the petitioner would be entitled to Selection Grade in the cadre of Block Health Supervisor with effect from 08.04.1999. However, the petitioner has been granted Selection Grade in the cadre of Block Health Supervisor only with effect from 26.08.2006.

13.In view of the above said facts, the petitioner would be entitled to conferment of Selection Grade in the cadre of Block Health Supervisor with effect from 08.04.1999 onwards and not from 27.08.1996 as prayed for in the writ petition. The petitioner had further prayed for conferment of Special Grade in the cadre of Block Health Supervisor on completion of ten years. If ten year is calculated from 08.04.1999, it would fall on 08.04.2009. However, the petitioner had been appointed as a Technical Personal Assistant with effect from 13.04.2008 itself which carries a higher pay scale than that of the Block Health Supervisor. Hence, the petitioner would not be entitled to Special Grade in the cadre of Block Health Supervisor.



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14.In view of the above said fact, this Court is inclined to pass the following orders:

(i)The order impugned in the writ petition is set aside and the matter is remitted back to the file of the second respondent herein.

(ii)The second respondent shall confer Selection Grade on the writ petitioner in the cadre of Block Health Supervisor with effect from 08.04.1999 and revise the scale of pay accordingly and disburse the monetary benefits.

(iii)The writ petition stands dismissed with regard to the other prayers.

15.Accordingly, this writ petition is partly allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petition is closed.

23.02.2024

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

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State of Tamil Nadu
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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