



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

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THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.18568, 18570 &18571, of 2019

and

W.MP.No.17888, 17890, 17891 of 2019

Dr.P.M.Jeyalaksmi
Ayush Medical Officer (siddha),
Government Primary Health Centre,
Thiruvankadanadha Puram,
Tirunelveli District. ... Petitioner in WP.No.18568/2019

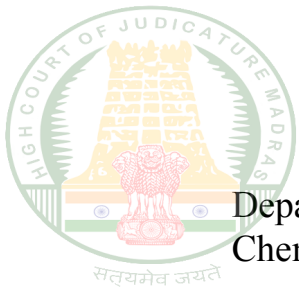
Dr.G.Sharmila Jim
Ayush Medical Officer (siddha) Government
Primary Health Centre vilathanoore
Madurai District. ... Petitioner in WP.No.18570/2019

Dr.G.V.Dhanalakshmi ,
Ayush Medical Officer (siddha) Government
Primary Health Centre,Vilathanoore
Madurai District. ... Petitioner in WP.No.18571/2019

Vs.

1 The Principal Secretary
Department Of Health And Family Welfare
Government Of Tamilnadu,
Fort.st.George, Chennai-9

2 Director Of Indian Medicine and Homoeopathy,



Department Of Indian Medicine and Homeopathy,
Chennai-106

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3 The Special Officer
Chief Ministers Spl Cell,
Government Of Tamilnadu,
Fort.St.George,
Chennai-600 009.

4 The Mission Director
National Health Mission- Tamilnadu
359 Anna Salai, DMS Annex Building,
DMS Complex, Chennai-6. ...

Respondents in all WPs.

Prayer in WP.No.18568/2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order in NA.KA.No.412/Thival/2018-2 dated 15.10.2018 on the file of the 2nd Respondent and quash the same and consequently direct the Respondents to comply with the Principle of equal pay for equal work and grant regular pay scale of Rs.56,100-1,05,000 or any other present regular pay scale at Par with the other Government AYUSH Medical officers with effect from the date of Appointment.

Prayer in WP.No.18570/2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order in NA.KA.No.412/Thival/2018-2 dated 15.10.2018 on the file of the 2nd Respondent and quash the same and



consequently direct the Respondents to comply with the Principle of equal pay for equal work and grant regular pay scale of Rs 56,100-1,05,000 or any other present regular pay scale at Par with the other Government AYUSH Medical officers with effect from the date of Appointment.

Prayer in WP.No.18571/2019: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Manmamus calling for the records pertaining to the order in NA.KA.No.412/Thival/2018-2, dated 15.10.2018 on the file of the 2nd Respondent and quash the same and consequently direct the Respondents to comply with the Principle of equal pay for equal work and grant regular pay scale of Rs.56,100-1,05,000 or any other present regular pay scale at Par with the other Government AYUSH Medical officers with effect from the date of Appointment.

In all WPs.:

For Petitioner : Mr.Puhazh Gandhi P

For Respondents : Mr.K.Tippu Sulthan, Govt.Advocate

COMMON ORDER

These writ petitions have been filed to call for the records pertaining to the order passed by the 2nd respondent dated 15.10.2018 in NA.KA.No.412/Thival/2018-2, which denied the petitioners' representation to given pay equivalent to that of the regular AYUSH doctors.



2. It is submitted by the learned counsel for the petitioners that they have been given with consolidated payment of Rs.29,900/- per month, but they are not able to work all the six days of a week. The regular doctors of AYUSH are being paid with Rs.56,100-1,05,000/- as their monthly pay. By demanding 'equal pay for equal work' the petitioners have given representation and the same was rejected.

3. Persons similarly placed like the petitioners have filed a batch of writ petitions before this Court in ***WP.Nos.510 of 2019, (batch) dated 27.09.2022 [Dr.N.Savithiri & ors Vs. The Principal Secretary and others]***. In those batch of matters, His Lordship Hon'ble Mr.Justice S.M.Subramaniam has passed the following order:

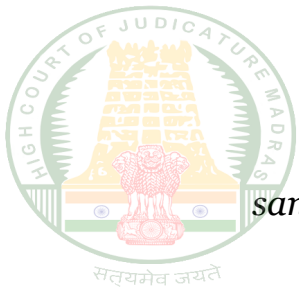
“19. The Doctrine of equal pay for equal work is not an abstract doctrine. The principles for equal pay for equal work has no mechanical application in every case. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, makes a difference. Thus, the application of the principle of -equal pay for equal work- requires consideration of various dimensions of a given job. Granting pay scale is a purely executive function and hence the court should not interfere with the same. It may have a cascading effect, creating all kinds of problems for the Government and authorities.

20. In the context of the above principles the facts placed before this Court in these writ petitions reveals that the nature



of appointment of the regular AYUSH Medical Officers cannot be compared with the contract appointment of the writ petitioners as AYUSH Medical Officers for a consolidated pay salary. The regular AYUSH Medical Doctors are appointed against sanctioned post in the time scale of pay and they were appointed in accordance with the Recruitment Rules in force and through open competitive process. But the petitioners were appointed on contract basis for a period of 11 months and on expiry of the contract period based on their performance, the contract was extended. Initially, the payment was made on daily wage basis and subsequently, at the request of the contract Doctors, the Government is paying the consolidated pay salary. The working hours are incomparable and the responsibilities on the regular Medical Officers cannot be compared with the contract Medical Officers. The contract Medical Officers are performing part-time duties and they are working 3 days per week and 6 hours per day. Therefore, their working hours, duties and responsibilities cannot be compared with the regular Medical Officers, who all are performing their duties and responsibilities as per the Government guidelines and even on emergency circumstances, they are bound to work beyond the working hours. Thus, the nature of duties and responsibilities, method of recruitment and other conditions of the contract AYUSH Medical Officers cannot be compared with the regular AYUSH Medical Officers. Thus, both are unequals and cannot be treated as equals in the matter of fixation of pay.

21. That apart, the petitioners have accepted the terms and conditions of the contract and serving as contract AYUSH Medical Officers under the scheme introduced by the Government of India. It is the scheme related appointment and they have agreed with the terms and conditions and therefore, now they cannot turn around and claim equal pay on par with the other regular AYUSH Medical Officers, who all are serving in the Department of Health and Family Welfare. Once an employee agreed the contractual terms and conditions, they are bound by that and they cannot claim any benefit by comparing the other regular AYUSH Doctors, who all are working in a



sanctioned post.

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22. This being the distinction drawn in respect of the nature of the services, mode of appointment and duties and responsibilities etc., the claim of the writ petitioners are not well founded and therefore, this Court is of an opinion that the petitioners cannot be considered as equals on par with the regular AYUSH Medical Officers, who all are working in a sanctioned post in the time scale of pay. Thus, the order impugned is in consonance with the established principles and there is no infirmity as such."

4. The above order is applicable to the facts of these cases also and hence these Writ Petitions are dismissed in the light of earlier order passed in in W.P.No.510/2019, etc. dated 27.09.2022.

In the result, these petitions are **dismissed**. No costs. Consequently, the connected miscellaneous petitions are also closed.

13.02.2025

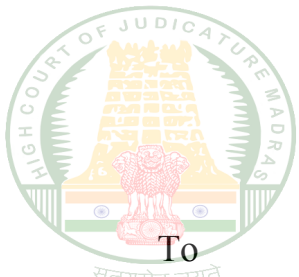
jrs

Index : Yes

Internet : Yes/No

Speaking/Non- Speaking

Neutral: Yes/No



To

- 1 The Principal Secretary
Department Of Health And Family Welfare
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Fort.st.George, Chennai-9
- 2 Director Of Indian Medicine and Homoeopathy,
Department Of Indian Medicine and Homeopathy,
Chennai-106
- 3 The Special Officer
Chief Ministers Spl Cell,
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R.N.MANJULA, J.
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