



WA No. 2615 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-09-2025

CORAM

THE HON'BLE MR JUSTICE R. SURESH KUMAR

AND

THE HON'BLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.A No. 2615 of 2025 and C.M.P.No.20887 of 2025

1.The State of Tamil Nadu, Rep. by the Principal
Secretary to the Government,
Fort St. George , Chennai -600 009.

2.The Secretary,
Health and Family Welfare Department, Fort St.
George, Chennai 600 009.

3.The Commissioner,
Indian Medicine and Homeopathy Department,
Arumbakkam, Chennai -600 009.

..Appellants

Vs

Dr.K.Sathyanarayanan,
S/o. M.Krishnasamy, No.378, Samiyarkadu, Sankari,
Salem -637 807.

..Respondent



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Prayer : Writ Appeal under Clause XV of the Letters Patent to set aside the order dated 18.04.2024 made in W.P.No.17505 of 2017.

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For Appellants : Ms.M.Sneha
Special Counsel for Health and Family
Welfare Department

For Respondent : Mrs.Hema Sampath, Senior Counsel
for M/s.R. Meenal

JUDGMENT

(Judgment of the Court was delivered by R.Suresh Kumar J.)

This intra Court appeal has been directed against the order passed by the Writ Court dated 18.04.2024 made in W.P.No.17505 of 2017.

2. The respondent was the writ petitioner, who is a physically disabled person and he is qualified to hold the post of Assistant Medical Officer (Siddha). While so, the Tamil Nadu Public Service Commission (In short 'TNPSC') issued a notification for selection and appointment to the post of Assistant Medical Officer (Siddha) for the year 2003-04. The petitioner had made an application, however he noticed that there has been no vertical reservation provided under Physically Disabled Persons quota based on the provisions of the Persons With Disabilities (Equal Opportunities,



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Protection of Rights and Full Participation) Act, 1995 (In short 'Act for Disabled

Persons). Therefore, he filed a writ petition in W.P.Nos.21078 and 21079 of 2004 challenging the proviso to Rule 22 of the Tamil Nadu State and Subordinate Service Rules and sought for a direction to give 3% reservation for the physically disabled persons. The said writ petitions were allowed by a Division Bench of this Court by order dated 11.03.2008 declaring that proviso to Rule 22 of the Tamil Nadu State and Subordinate Service Rules excluding the posts covered by Group A and B services, including the post of Assistant Medical Officer (Siddha) from the purview of Rule 22 of the Tamil Nadu State and Subordinate Service Rules as unconstitutional and further directed for implementing the provisions of the Act for Disabled Persons, 1995 for filling up the post of Assistant Medical Officer (Siddha).

3. Despite the direction having been given by the Division Bench, the candidature of the respondent / writ petitioner was negated by issuing a memorandum dated 23.03.2009 by the TNPSC, which triggered him to file yet another writ petition in W.P.No.5097 of 2009. The learned Writ Court allowed the



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said writ petition by order dated 17.11.2011, whereby the following orders have been passed:

" 16. In the result, the Writ Petition is allowed, the impugned order is set aside and the respondents are directed to appoint the petitioner as Assistant Medical Officer (Siddha) in the post reserved for him pursuant to the interim order in W.P.M.P.No.25412 of 2004 in W.P.No.21079 of 2004, dated 12.08.2004 and as per the direction contained in paragraph 12 of the common final order of the Hon'ble First Bench of this Court in W.P.Nos. 21078 and 21079 of 2004 dated 12.08.2004 and as per the direction contained in paragraph 12 of the common final order of the Hon'ble First Bench of this Court in W.P.Nos.21078 and 21079 of 2004 dated 11.03.2008, within a period of four weeks from the date of receipt of a copy of this order. However, it is made clear that the petitioner shall not be entitled for any monetary benefits for the earlier period, prior to his taking charge, but the earlier period shall be taken into consideration for the purpose of computing the total length of service of the petitioner. No costs. Consequently, connected miscellaneous petition is closed."



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4. This order has been accepted by the TNPSC as well as State authorities

and therefore the selection and appointment has been given to the respondent / writ petitioner by issuance of G.O.(4D) No.3, Health and Family Welfare Department dated 03.05.2012. Pursuant to the said order, he joined as Assistant Medical Officer (Siddha). Thereafter, through the order passed by the first respondent, who is the first appellant herein, the services of the respondent / writ petitioner was regularized as Assistant Medical Officer (Siddha) only from the date of his taking charge of the post pursuant to G.O.(4D) No.3 and not from the date originally he ought to have been selected and permitted to join duty along with others pursuant to the selection completed by the TNPSC. Since such a regularization in case of the writ petitioner was made only from the date on which he joined in services after the issuance of G.O.(4D) No.3 dated 03.05.2012, thereby the past service, which ought to have been regularized for the purpose of continuity of service as directed by the Writ Court through the order dated 17.11.2011 made in W.P.No.5097 of 2009 was flouted and therefore, the respondent / writ petitioner again was triggered to file the present writ petition ie., W.P.No.17505 of 2017. The said writ petition was allowed by the Writ Court through the order impugned dated 18.04.2024.



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5. Assailing the order impugned, Ms.Sneha, learned Special Counsel for the appellant Department would contend that, while allowing the special reservation of 3% for physically disabled persons by declaring the proviso to Rule 22 of the Tamil Nadu State and Subordinate Service Rules as ultra vires, the Division Bench has passed the order only on 11.03.2008. However, insofar as the selection which is in question is concerned, it is of the year 2003. Therefore, in the year 2003, what was the prevailing situation has not been properly considered by the Writ Court, while allowing the writ petition through the impugned order.

6. The learned Counsel would also submit that, only from the date actually he joined service all benefits have been given including the regularization and the service benefits and therefore, for the period he never worked and never been appointed as Assistant Medical Officer (Siddha), taking into account of the service period for which he never worked even for one day, such retrospective regularization cannot be sought for and therefore, such a prayer since has been asked for, which



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has been erroneously allowed by the writ Court by order dated 18.04.2024, the same is liable to be interfered with.

7. We have also heard Mrs.Hema Sampath, learned Senior Counsel assisted by Ms.R.Meenal for the respondent / writ petitioner.

8. Learned Writ Court in the impugned order, has extracted the order passed by the Writ Court in the earlier round of litigation made in W.P.No.5097 of 2009 dated 17.11.2011 in Para 16 of the said order, which we have also extracted herein above. In the said order, it has been made clear by the writ Court that the writ petitioner shall not be entitled for any monetary benefit for the period prior to his taking charge, but the earlier period shall be taken into consideration for the purpose of computing the total length of service of the petitioner. This order has never been questioned by the appellant Department, and in fact the order has been accepted and when they want to comply with the order, only part of the order has been complied with by giving selection and appointment of the writ petitioner and



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remaining part of the order dated 17.11.2011, though has been accepted by not filing any appeal, has not been implemented by the appellant department.

9. When that being the position, the learned writ Court in the present order which is impugned herein, has pointed out that, insofar as the order that has been passed by the writ Court dated 17.11.2011 passed in W.P.No.5097 of 2009 is concerned, it has become final and the same also was accepted by the respondent and thereafter only the writ petitioner was appointed as Assistant Medical Officer (Siddha) with effect from 29.05.2012. Therefore, his services were to be regularized with effect from the date when he ought to have been selected and appointed and thereafter joined service on par with other selectees. However, now the regularization has been given only from the date of joining service ie., 29.05.2012 against the very import of the order passed by the writ Court dated 17.11.2011. That is the reason stated by the learned Judge and therefore the reliance placed by the appellant department, who were the respondents before the Writ Court by citing Rule 17 of Fundamental Rules 27 was not accepted.



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10. The said approach of the learned Judge through the impugned order cannot be found fault with as the order passed by the Writ Court in the earlier round of litigation in W.P.No.5097 of 2009 dated 17.11.2011 has become final and therefore the same cannot be partially implemented and partially denied to be implemented. Moreover, by implementing the order dated 17.11.2011 in toto, no prejudice would be caused to the appellant department as there has been no definite commitment attached with the implementation of the said order. Therefore, absolutely there could be no grievance for the appellant department to agitate the issue by filing the present appeal.

11. Thus, in view of the aforesaid circumstances, we are of the considered opinion that the order impugned warrants no interference at our hands. Resultantly, the appeal fails and hence it is dismissed. However, there shall be no order as to the costs. Consequently, connected miscellaneous petition is closed.

12. It is made clear that the implementation of the order as directed by the Writ Court in consonance with Paragraph 16 of the order passed by the Writ Court



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dated 17.11.2011 made in W.P.No.5079 of 2009, if not already been implemented,

shall be implemented within a period of two months from the date of receipt of a copy of this order.

(R.S.K.,J.) (H.C.,J.)
10-09-2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

KST

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AND
HEMANT CHANDANGOUDAR, J.**

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