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Court : Chennai

Decided On : Feb-02-2016

Judge : T. Raja

Appeal No. : W.P.Nos. 3492 & 3493 of 2016 & WMP.Nos. 2853 & 2854 of 2016

Appellant : Binu Kumar and Another

Respondent : State of Tamil Nadu, Rep.by its Secretary and Another

Advocate for Pet/Ap. : Ms. Anna Mathew

Judgement :

(Prayer: Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondents to appoint the petitioners to the post of Health Inspector Grade II.)

Common Order:

1. Both the writ petitions are filed for a direction to the respondents to appoint the petitioners to the post of Health Inspector Grade II.
2. Heard Ms.Anna Mathew, learned counsel for the petitioner in both petitions and Mr.A.Kumar, learned Special Government Pleader, who took notice for the

respondents and with their consent, the main writ petitions are taken up for disposal.

3. Ms. Anna Mathew, learned counsel for the petitioners submitted that there are several vacancies for the post of Health Inspector Grade II and the respondents have not followed the proper selection procedure to fill up all the vacancies. The learned counsel for the petitioners brought to the notice of this Court the various interim orders passed by this Court in Writ petition Nos. 16488 of 2012; 4552 and 4553 of 2015 and 38040 of 2015 and also the final order passed by this Court in WP.No 29137 of 2015 dated 16.10.2015(SURESHKUMAR V. STATE OF TAMIL NADU AND ANOTHER) and submitted that in the case of SURESHKUMAR, cited supra, this Court, while allowing the said writ petition, has directed the respondents 1 and 2 therein to appoint the petitioner therein as Health Inspector Grade - II, in the light of the G.O.Ms.No.305 dated 22.9.2009. The learned counsel further submitted that insofar as the seniority and other consequential benefits, this Court has also given liberty to the petitioner therein to submit a representation to the respondents 1 and 2 and on receipt of the same, the respondents 1 and 2 were directed to consider the same on merits and in accordance with law, after putting notice to the person concerned. Therefore, the learned counsel for the petitioners prayed for similar order in these writ petitions also.

4. Mr. A.Kumar, learned Special Government Pleader appearing for the respondents submitted that subject to the eligibility of the petitioners, their representation would be considered.

5. It is an admitted fact that the petitioners have registered their name in the Employment Exchange and their juniors were considered for the post of Health Inspector Grade II, overlooking the seniority maintained in the Employment Exchange. In Sureshkumar case, this Court, has given specific direction to the respondents therein to appoint the petitioner as Health Inspector Grade - II in the light of the G.O.Ms.No.305 dated 22.9.2009, by taking into consideration paragraph No.8 of the said order and has also given liberty to the petitioner therein to submit a representation to the respondents 1 and 2 therein with regard to the Seniority and other consequential benefits, which may arise out of the said order,

and on receipt of the same, the respondents therein are directed to consider and pass orders. It is relevant to extract paragraphs 11 and 12 of the said order, which reads as follows:

"11. In the result, the writ petition is allowed and the impugned order dated 20.9.2011, passed by the second respondent, is set aside and the respondents 1 and 2 are directed to appoint the petitioner as Health Inspector Grade-II in the light of the G.O.Ms.No.305 of the first respondent dated 22.9.2009, by taking into consideration paragraph No.8 of the said order and are further directed to complete the said exercise within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

12. Insofar as the seniority and other consequential benefits, which may arise out of this order, the petitioner is at liberty to submit a representation to the respondents 1 and 2 within a period of two weeks from the date of receipt of a copy of this order and the respondents on receipt of the same, are directed to consider it on merits and in accordance with law, after putting on notice, the persons concerned, and pass orders thereon within a period of eight weeks thereafter and communicate the decision taken, to the petitioner as well as to the persons concerned. No costs. Consequently, connected miscellaneous petition is closed."

6. Since the petitioners herein are also similarly situated persons as that of the petitioner in the above said writ petition, their cases should also be considered by the respondents in the light of the G.O.Ms.No.305 dated 22.9.2009. Accordingly, following the said order, these writ petitions are allowed and the respondents are directed to appoint the petitioners as Health Inspector Grade-II, in the light of the G.O.Ms.No.305 of the first respondent dated 22.9.2009, by taking into consideration paragraph No.8 of the said order, if they are otherwise qualified. The respondents are further directed to complete the said exercise within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners.

12. Insofar as the seniority and other consequential benefits, which may arise out of this order, subject to the eligibility of the petitioners, the petitioners are at liberty

to submit a representation to the respondents within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the respondents are directed to consider it on merits and in accordance with law, after putting on notice, the persons concerned, and pass orders thereon within a period of eight weeks thereafter and communicate the decision taken, to the petitioners as well as to the persons concerned.

No costs. Consequently, connected miscellaneous petitions are closed.

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