



ABSTRACT

Public Health – W.P. No. 15055 / 2006, (O.A.No. 785/1995) filed by Tamil Nadu Health Visitors Association - Orders of High Court of Madras – Implemented - Orders – Issued.

HEALTH AND FAMILY WELFARE (L1) DEPARTMENT

G.O.(Ms) No.443

Dated: 30.12.2014
Thiruvalluvar Aandu - 2045
Jaya, Markazhi – 15.

Read:-

1. G.O. (Ms). No. 666, Finance (PC) Department, dated 27.06.1989.
2. G.O. (Ms). No. 1057, Finance (PC) Department, dated 25.09.1989.
3. G.O. (Ms). No. 304, Finance (PC) Department, dated 28.03.1990.
4. Deputy Director of Health Services, Vellore proceedings No.8958 / 1992, dated 07.11.1994.
5. G.O. (Ms). No. 91, Finance (PC) Department, dated 26.02.1997.
6. The orders of Hon'ble High Court dated 21.06.2007 in W.P.No. 15055/2006 filed by Tamil Nadu Health Visitor's Association.
7. The orders of Hon'ble High Court, dated 13.10.2009 in W.A. No. 741/2008 filed by the Secretary to Government, Health and Family Welfare Department, Government of Tamilnadu.
8. The orders of Hon'ble High Court, dated 04.07.2012 in R.A. No. 65/2012 filed by the Secretary to Government, Health and Family Welfare Department, Government of Tamilnadu.
9. G.O.(Ms.)No.121, Health and Family Welfare Department, dated: 03.06.2013.
10. The Hon'ble High Court, order-dated: 10.1.2014 in W.P.No. 35088/2013 and order-dated: 25.02.2014 in W.P.No.5599/2014
11. The Director of Public Health and Preventive Medicine, letter R.No.17751/MP3/S3/2014, dated: 25.09.2014.

ORDER:

Based on the recommendations of the Fifth Tamil Nadu Pay Commission a revised scale of pay of Rs. 1400-2600 has been granted for the post of Sector Health Nurse with reference to the pre-revised scale of pay of Rs. 780-1385. In the Government Order second read above, the Ordinary Grade scale of pay of Sector Health Nurse was revised from Rs. 1400-2600 to 1350-2200 in view of the fact that similar post of Health Supervisor (Male) was provided with the Ordinary Grade scale of Pay of Rs.1350-2200 in the Government Order first read above. The Tamil Nadu

Health Visitors Association filed O.A.No.786 of 1990 with a prayer to quash the Government Order second read above.

2. The Hon'ble Tribunal in its order-dated: 13-5-1996 in O.A.No. 786 of 1990 has quashed the Government Order second read above and directed to retain the scale of pay of the applicant Association as envisaged in the Government Order first read above. The prayer of the applicant in O.A.No. 786 of 1990 was complied with in the Government Order fifth read above by fixing the Ordinary Grade Scale of pay of the Sector Health Nurse at Rs. 1400-2600 instead of Rs. 1350-2200 as envisaged in the Government Order first read above.

3. In para 4 of the Government Order third read above, conditions were stipulated to the effect that wherever the promotion post happens to be on a lower scale of pay than the Selection Grade scale of pay given in Annexure –I therein, employees in such posts are eligible for the Selection Grade scale as applicable to promotion post only. Accordingly, it was instructed to fix the Selection Grade scale of pay of the Sector Health Nurse at Rs. 1600-2660 i.e. equal to the Ordinary Grade scale of pay of the Community Health Nurse which is the promotion post of Sector Health Nurse. Based on the above, the Deputy Director of Health Services, Vellore in his proceedings fourth read above issued orders to regulate the Selection Grade scale of pay of the Sector Health Nurses at Rs. 1600-2660 and to recover the excess payment if any paid to them. Consequent on the recovery made to the Selection Grade Sector Health Nurses, the Tamil Nadu Health Visitors Association filed another O.A. No. 785 of 1995 (renumbered as W.P.No. 15055 of 2005) with a prayer to quash the proceedings of the Deputy Director of Health Services, Vellore dated 07.11.1994 and to pay the Selection Grade scale of pay of the Sector Health Nurse at Rs.1640-2900. The Hon'ble High Court in its order sixth read above has allowed the Writ Petition and set aside the impugned order passed by the Deputy Director of Health Services, Vellore fourth read above.

4. Accordingly, the Government to honour the said orders of the Hon'ble High Court of Madras issued orders in the Government order ninth read above to waive the excess amount paid to the incumbents of Selection Grade Sector Health Nurse to the tune of Rs.1,13,337/- and sanctioned a sum of Rs.1,13,337/- (Rupees one lakh thirteen thousand three hundred and fifty seven only) towards reimbursement to the individuals and directed the Director of Public Health and Preventive Medicine to draw and disburse the above said amount to the individuals concerned. As per the above said orders, the Director of Public Health and Preventive Medicine has disbursed the above said amount of Rs.1,13,337/- only to the individuals concerned in the Vellore Health District. But, no decision has been taken in respect of the prayer for re-fixation of the scale of pay of Selection Grade Sector Health Nurses from the scale of pay of Rs.1600-2600 to Rs.1640-60-2600-75-2900.

5. Aggrieved by the above said Government Order, the Tamil Nadu Health Visitors Association has filed two Writ Petitions in W.P.No.35088/2013 and W.P.No.5599/2014 with a prayer to revise and re-fix the scale of pay of the Selection Grade Sector Health Nurses (SHN) / Community Health Nurses (CHN) in the scale of Rs.1640-2900 by applying the dictum laid down by the Court in the orders sixth read above based on their representation dated: 25.07.2013 seeking extension of the above benefit forthwith and other consequential retirement benefits as applicable.

6. The Hon'ble High Court, in its order tenth read above, has ordered as follows:-

“Considering the facts and circumstances of the case and the submissions made on either side, this Court directs the respondents to consider the representation dated: 25.07.2013 given by the petitioner-Association and to pass appropriate orders in the light of the orders passed by this Court in W.P.No.15055/2006, dated: 21.06.2007, as confirmed by the Division Bench in W.A.No.741/2008, dated: 13.10.2009 and reiterated by the affirming order in Review Appeal No.65/2012, dated: 04.07.2012, within a period of eight weeks from the date of receipt of a copy of this order.”

7. The Director of Public Health and Preventive Medicine has requested the Government to consider the representation dated: 25.07.2013 given by the petitioner-Association and to re-fix the scale of pay of all the Sector Health Nurses from the scale of pay of Rs.1600-2600 to Rs.1640-60-2600-75-2900, based on the judgement of the Hon'ble High Court of Madras.

8. The Government have carefully examined the proposal of the Director of Public Health and Preventive Medicine in the light of the orders of the Hon'ble High Court in the reference sixth, seventh, eighth and tenth read above and decided to accept the proposal of the Director of Public Health and Preventive Medicine, accordingly re-fix the scale of pay of the Selection Grade Sector Health Nurses from Rs.1600-2660 to Rs.1640-60-2600-75-2900. This order should not be quoted as precedent in future.

9. This order issues with the concurrence of Finance Department vide its U.O.Note No. 56469/CMPC/2014, dated 03.12.2014.

(By Order of the Governor)

J.RADHAKRISHNAN
SECRETARY TO GOVERNMENT


To

The Director of Public Health and Preventive Medicine, Chennai – 600 006.
The Accountant General, Chennai – 18/9/35.
The Accountant General (CAB), Chennai – 9.
All Pay and Accounts Officers / District Treasury Officers

Copy to

The Finance (Health-1/ BG.II/CMPC) Department, Chennai –9.
The General Secretary, Tamilnadu Health Visitors Association,
77/3, Subramania Mudali Street, Saidapet, Chennai – 15.
Stock file/ Space copies / Data Cell

// Forwarded / By order//


20/12/14
SECTION OFFICER


20/12/14