

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.12845 of 2015
and
M.P.No.1 of 2015

M.C.Gomathi Nayagi

...Petitioner

vs.

- 1.The Secretary to Government,
Health Department, Fort St.George,
Chennai.
- 2.The General Health and Prevention of Health
Department of Public Health and Preventive Medicine
Chennai - 600 006.
- 3.The Deputy Director of Health Service,
District Collectorate Office, Sothuvadai,
Vellore District.
- 4.The District Health Officer,
Sathuvachari, Vellore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of writ of Certiorarified mandamus, calling for the records on the file of the third respondent in Na.Ka.No.256/A4/2006 dated 12.06.2014 and quash the same and consequently direct the respondents to grant the petitioner retirement benefits.

For Petitioner : Mr.R.Chandrasekaran

For Respondents : Mr.V.Jayaprakash Narayanan
Spl.Govt.Pleader

O R D E R

With the consent of both sides, the writ petition is taken up for final disposal.

2. Heard both sides.

3. The petitioner was appointed as a Village Health Nurse on 24.09.1986. She was to retire on 30.06.2014. While so, to her utter surprise, she was terminated from service by the third respondent, by the impugned order dated 12.06.2014 on the ground that she failed to pass S.S.L.C.

4. According to the petitioner, in the year 1977, she completed her schooling for 11 years, but failed in S.S.L.C. Thereafter, she was appointed as Village Health Nurse in 1986. She continued in service for about 28 years. At the time of retirement, instead of relaxing the Rule relating to recruitment that requires a pass in S.S.L.C for appointment, the petitioner was sought to be terminated just 18 days before retirement, that too after completion of 28 years of service.

5. It is not in dispute that as per the Recruitment Rules, the petitioner should have passed S.S.L.C. According to the petitioner, old S.S.L.C consisted of 11 years period. It is true that the petitioner did not pass S.S.L.C. Having employed the petitioner for about 28 years, knowing very well that she did not pass S.S.L.C, now the petitioner could not be terminated at the verge of retirement by the third respondent, by an innocuous order that she did not pass S.S.L.C. at the time of appointment.

6. The Government invoking Rule 48 of Tamil Nadu State and Subordinate Service Rules, issue so many orders relaxing the qualification in case, the employees do not possess the requisite qualification. In this case, the petitioner rendered 28 years of service. The third respondent should have sent proposal to the first respondent seeking to relax the qualification for the petitioner in the aforesaid facts and circumstances of the case. But unfortunately, the third respondent sought to pass the impugned order terminating the service of the petitioner.

7. In my view, such an order of termination is arbitrary and violative of Articles 14 and 21 of the Constitution in the facts and circumstances of the case. Hence, I have no hesitation to quash the impugned order. Accordingly, the impugned order dated 12.06.2014 is quashed.

8. The third respondent is directed to send proposals to the first respondent to relax the qualification relating to the appointment of the petitioner within a period of 30 days and the first respondent is directed to pass an order invoking its power under Rule 48 of the Tamil Nadu State and Subordinate Service Rules relaxing the qualification, particularly, taking into account the aforesaid facts and circumstances of the case within a period of eight weeks thereafter and the first respondent is

further directed to settle the terminal benefits including pension within a period of eight weeks thereafter.

The writ petition stands allowed in the above terms. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government,
Health Department, Fort St.George,
Chennai.
- 2.The General Health and Prevention of Health
Department of Public Health and Preventive Medicine
Chennai - 600 006.
- 3.The Deputy Director of Health Service,
District Collectorate Office, Sothuvadai,
Vellore District.
- 4.The District Health Officer,
Sathuvachari, Vellore District.

1 CC to the Government Pleader, SR.No. 27451

सत्यमेव जयते

W.P.No.12845 of 2015

AD (CO)
PSI (22.06.2015)

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