

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

Writ Petition No.28443 of 2015

S.Pushpavalli

... PETITIONER

Vs

1. The Secretary to Government
Health and Family Welfare (K2) Department,
Fort St. George, Chennai - 600 009.
2. The Director of Medical
and Rural Health Service,
Chennai - 06.
3. The Joint Director of Medical and Rural Health
Services and Family Welfare,
Salem.

... RESPONDENT

PETITION under Article 226 of The Constitution of India praying for the issuance of Writ of Mandamus directing the respondents to promote the petitioner to the post of Nursing Superintendent Grade II for the year 2015-2016 in the light of the G.O.ms.No.22(P&AR) Department dated 24.02.2014 with all consequential service and monetary benefits.

For Petitioner : Mr.A.Tamilrajan

For Respondents : Mr.R.Vijayakumar,
Additional Government Pleader

WEB COPY

O R D E R

By consent, the Writ Petition itself is taken up for final disposal.

2. The petitioner was appointed as staff nurse on 03.10.1983. She was visited with the disciplinary proceedings in the form of charge memo dated 06.11.2006 under Rule 17(b) of TNCS(D&A) Rules. The third respondent vide proceedings dated 14.7.2008 has cancelled the charge memo and on 25.7.2008, issued a fresh charge memo. Challenging the same, the petitioner has filed W.P.No.21213 of 2008, which was allowed by this Court on 24.3.2010. The petitioner, once again, approached this Court in W.P.No.12301 of 2012 and this Court, by order dated 19.6.2012, disposed of the same with a direction to the concerned respondent to pass final orders on the charge memo on or before September, 2012. Ultimately, the disciplinary proceedings culminated into one of punishment of stoppage of increment for a period of two years with cumulative effect. As against the same, the petitioner filed a Departmental appeal before the first respondent and vide order dated 02.01.2015, the first respondent modified the award of punishment to that of stoppage of increment for a period of 6 months without cumulative effect and it was also implemented on 02.05.2015. The petitioner has again filed W.P.No.15766 of 2015 challenging the modified order of punishment and the same is still pending.

3. The grievance now expressed by the petitioner is that the currency of punishment cannot be put against the petitioner for the reason it had happened during the year 2005 and since the order of the first respondent has already been given effect to, there cannot be any impediment for inclusion of her name for promotion to the post of Nursing Superintendent Grade II in respect of the panel for the year 2015-16 and in this regard she has submitted a representation dated 28.5.2015 to the second respondent. Since no orders have been passed, the petitioner came forward to file the Writ Petition.

4. Heard the submissions of the learned counsel appearing for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader, who accepts notice on behalf of the respondents.

5. Though the petitioner has prayed for a larger relief, this Court in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner either in the Writ Petition or in the representation, directs the second

respondent to consider the representation of the petitioner dated 28.5.2015 and pass orders on merits and in accordance with law 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.

The Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sl

To

1. The Secretary to Government
Health and Family Welfare (K2) Department,
Fort St. George, Chennai - 600 009.
2. The Director of Medical
and Rural Health Service,
Chennai - 06.
3. The Joint Director of Medical and Rural Health
Services and Family Welfare,
Salem.

+1cc to Mr.A.Tamilrajan, Advocate, S.R.No.49213
+1cc to the Government Pleader, S.R.No.49606

Writ Petition No.28443 of 2015

KU(CO)
CA(30/09/2015)

WEB COPY