

**HONOURABLE SRI JUSTICE G.CHANDRAIAH
AND
HONOURABLE SRI JUSTICE U.DURGA PRASAD RAO**

WRIT PETITION No. 38676 of 2015

DATED 7TH December, 2015

BETWEEN

Smt. V.Sujatha

...Petitioner

And

The Government of Andhra Pradesh,
Rep. by its Principal Secretary, Health, Medical
And Family Welfare Department, Secretariat,
Hyderabad and ors.

...Respondents.

**HONOURABLE SRI JUSTICE G.CHANDRAIAH
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ORDER: (Per Hon'ble Sri Justice G.CHANDRAIAH)

We have heard the learned Counsel on either side.
Perused the material on record.

The petitioner passed B.Sc. (Nursing) and joined as a Staff Nurse. Thereafter she was promoted to the post of Public Health Nurse (Teaching)/Sister Tutor. As the petitioner is the senior most Public Health Nurse/Sister Tutor and as the posts of Principal are not being filled up for the last several years, the petitioner was posted as In-charge Principal, Multi Purpose Health Worker (Female) Training School and she is being

continued as such. The next promotion to the post of Public Health Nurse (Teaching)/Sister Tutor is to the category of Public Health Nursing Instructor(PHNI) including the post of Principal, Multi Purpose Health Worker (Female) Training School. The said promotion is governed by the rules issued in G.O.Ms.No.261, HM & FW (B1) Department, dated 28.06.2002 as amended in G.O.Ms.No.312, dated 18.08.2008. It is the case of the petitioner that the second respondent through letter dated 18.12.2010 sought a clarification from the first respondent as to whether the posts of PHNI/Principal in Multi Purpose Health Workers (Female) Training Schools are the State-wide categories or local categories and when no clarification is forthcoming, the second respondent sought to fill up the equivalent posts of Community Health Officer. The petitioner and other similarly situated persons submitted their representations on 13.08.2010, 20.5.2011 and 10.6.2011 stating that they have been working in the posts of Public Health Nurse (Teaching) for the last 25 years in various Multi Purpose Health Workers Training Schools without any promotion and that if only the equivalent posts of Community Health Officer are sought to be filled up without filling up the posts of Public Health Nursing Instructor/Principal simultaneously, they would suffer irreparable loss and lose opportunity of being promoted to the post of Public Health Nursing Instructor/Principal. When no orders have been passed on the representations, the petitioner filed O.A.No.2864 of 2012 before the Andhra Pradesh Administrative Tribunal in not promoting her to the post of Principal, Multipurpose Health Workers (Female) Training School and continuing her as in-charge Principal, Multi Purpose Health Workers (Female) Training School in the guise of the

post of Principal, Multi Purpose Health Workers (Female) Training School to be organized into a Local Cadre is illegal and arbitrary and for a consequential direction to consider her case for promotion to the post of Principal, Multi Purpose Health Workers (Female) Training School. To the said OA, the Government filed a counter affidavit stating that subject post is a State Wide post and therefore it has been decided to proceed further by preparing State-wide inter se seniority list of Public Health Nurses (Teaching/Sister Tutors. In view thereof, the petitioner sought for amendment of the main relief in the OA by filing an amendment petition seeking consequential declaration that she is entitled to be considered for promotion to the post of Principal, Multi Purpose Health Worker (Female) Training School from the date when the vacancy arose as per her seniority and eligibility.

Ultimately the Tribunal by impugned order dated 11.09.2014 dismissed the said OA as functionless observing that as the petitioner/applicant has achieved the main relief claimed in the Original Application, it is for her to approach the authorities concerned expressing her claim retrospectively from the earlier date. The Tribunal further observed that the amendment of main relief sought is premature and kept open to the petitioner/applicant to do necessary exercise in regard thereto.

Dissatisfied with the same, the petitioner filed Review MA.No.2732 of 2014 seeking review of the order dated 11.09.2014 passed in the main OA. The Tribunal however, by order dated 24.11.2014 dismissed the same.

Hence the petitioner/applicant is before this Court.

Having regard to the foregoing factual scenario, we are not inclined to go into the merits or otherwise of the subject matter since because the Tribunal has disposed of the main OA based on the submissions of the learned Government Pleader and therein it was kept open for the petitioner to approach the authorities to claim promotion retrospectively. However, the learned Counsel for the petitioner submits that the petitioner has not been given regular promotion and she is being continued as In charge Principal. If that be so, it is just and appropriate to direct the petitioner to submit a detailed representation to the respondents inviting their decision in regard to her claim for promotion. We hope that the respondent authorities will consider the same and pass appropriate orders within the time frame. In view of there of, we direct the petitioner to make a detailed representation to the respondents with regard to her claim within a period of one month from the date of receipt of a copy of this order and within two months thereafter, the respondents are directed to consider the same and pass appropriate orders, on merits, in accordance with law.

Subject to the above, the Writ Petition is disposed of at the admission stage. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

JUSTICE G.CHANDRAIAH

JUSTICE U.DURGA PRASAD RAO

DATED 7TH DECEMBER, 2015. .

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