

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.32013 of 2016
and W.M.P.No.27762 of 2016

T.R.Valsakumari

... Petitioner

vs.

- 1.The State of Tamil Nadu, rep.
By the Secretary to Government,
Public Health & Family Welfare Dept.,
Secretariat, Chennai-9.
 2. The Director of Public Health
& Preventive Medicine,
Chennai-6.
 3. The Deputy Director of
Health Services,
Nagercoil, Kanyakumari District.
- ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to give appointment to the post of Social Science Instructor on the basis of the selection already made by the respondents immediately in the light of the communication of the second respondent in his memo R.No.145572/MP2/S1/2010 dated 27.2.2015 with effect from the date of selection with all monetary and service benefits.

For Petitioner : Mr.R.Singaravelan,
Senior Counsel
for M/s.M.Srividhya

For Respondents: Mr.A.Zakir Hussain,
Government Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to give appointment to the post of Social Science Instructor on the

basis of the selection already made by the respondents immediately in the light of the communication of the second respondent in his memo R.No.145572/MP2/S1/2010 dated 27.2.2015 with effect from the date of selection with all monetary and service benefits.

3. The case of the petitioner, in brief, is as follows:-

(a) The petitioner has possessed SSLC and Diploma in multipurpose Health (Female Worker Course) for 1½ years. She was selected and appointed to the post of Auxiliary Nurse and Midwife with and she joined service on 30.3.1986. From the date of the said appointment till date, she has been serving in the said post without any further promotion. She has passed M.A. in May 2005 and Post Graduate Diploma in Health Education by undergoing one year course from June 2010 to May 2011. In the State of Tamil Nadu, there are only three candidates including the petitioner, who are in possession of M.A. Sociology and the above one year Post Graduate Diploma Certificate from Doctor M.G.R.University, which are essential qualifications for appointment to the post of Social Science Instructor.

(b) Earlier, when she joined service in Mujirai primary Health Centre, Vilavancode Taluk, Kanyakumari in 1986, she was transferred to Kollal in Vilavancode Taluk Primary Health Centre and she worked there upto 20.6.2014. Thereafter, she was transferred to Sulal Primary Health Centre in the same Taluk. There is a Memo from the Block Health Officer Primary Health Centre, Arudesam, dated 5.5.2008 circulated to the above two primary health centres and six other primary health centres directing the Village Health Nurse employed in those eight places to submit the accounts of income and expenditure of the amounts paid towards United Fund Annual Maintenance Grant to the medical officer of the respective eight Primary Health Centres for each and every month. Since the petitioner came to the above two Primary Health Centres only in December, 2012, she was not aware of the said circular of the Block Health Officer dated 5.5.2008. Hence, she was not able to follow the said instructions. However, in spite of the same, a charge memo dated 6.8.2014 was issued against the petitioner calling her explanation for not submitting the accounts.

(c) The petitioner submitted her explanation, but, she was imposed with a minor punishment of stoppage of increment for a period of one year without cumulative effect, against which, she preferred an appeal before the second respondent. In the appeal, her punishment was reduced from stoppage of increment for one year to that of censure. However, because of the said punishment, she was not promoted to the post of Sector Health Nurse, when her juniors numbering 625 were promoted.

(d) Thereafter, the petitioner applied for the post of Social Science Instructor. She was called for certificate verification and accordingly, she appeared and she was found to have been fully eligible for the said post. However, her promotion to the said post has been withheld. In this regard, she sent a representation dated 9.6.2016 to the first respondent to promote her in the post of Social Science Instructor. Since the same was not considered so far, left with no other alternative, the petitioner has come up with the present writ petition.

4. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the first respondent to consider the representation of the petitioner dated 9.6.2016 and pass appropriate orders, on merits and in accordance with law and also in the light of the Memo of the second Respondent dated 27.2.2015 within a period of six weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner and it is for the first respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

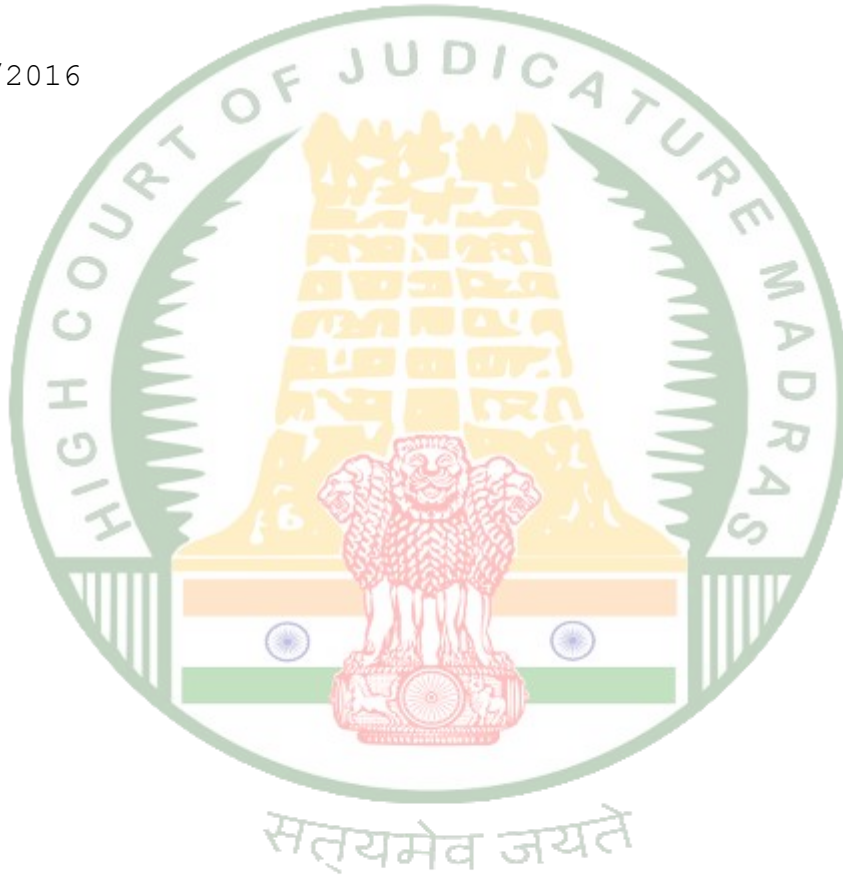
- 1.The Secretary to Government,
State of Tamil Nadu,
Public Health & Family Welfare Dept.,
Secretariat, Chennai-9.
2. The Director of Public Health
& Preventive Medicine,
Chennai-6.

3. The Deputy Director of
Health Services,
Nagarcoil, Kanyakumari District.

+1cc to M/S.M.Srividhya, Advocate Sr.52284
+1cc to the Government Pleader Sr.52527

W.P.No.32013 of 2016

psk[co]
srg 06/10/2016



WEB COPY