

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.327 of 2011

ORDER:

Petitioners claim to be working as Staff Nurses in primary health care centres situated in 10 districts of erstwhile State of Andhra Pradesh. The petitioners claimed to be holding diplomas in general nursing and mid-wives and that they are qualified to hold the post of regular Staff Nurse. According to the petitioners, they have been working as Staff Nurses on contract basis in Andhra Pradesh State AIDS Control Society and discharging duties in community health centres and primary health centres, particularly working in high risk areas of providing medical services to HIV affected persons. While so, vide orders in G.O.Rt.No.233, Health, Medical & Family Welfare (L2) Department dated 07.08.2006, the Government approved the establishment of 263 integrated HIV counseling and testing centres in 10 high prevalent districts of the erstwhile State of Andhra Pradesh to be located in upper primary health centres and primary health centres.

2. It is further averred that the Government engaged 266 Nurse Practitioners including the petitioners under National Rural Health Mission vide G.O.Rt.No.1064, Health, Medical & Family Welfare (L1) Department dated 13.08.2010 and as a consequence, the petitioners have been working in various health centres in 10 districts of the erstwhile State of Andhra Pradesh. While so, in order to fill up 1592 regular Staff Nurses posts vacant in the combined State of Andhra Pradesh, the Government issued orders in G.O.Rt.No.1539, Health, Medical & Family Welfare (J2) Department dated 06.11.2010 prescribing guidelines for recruitment. The recruitment procedure prescribed in the said GO indicates that selection would be based on marks obtained in the written test and working experience in the proportion of 70:30 respectively. Out of 30 marks for work experience, 10 marks were

earmarked for seniority in terms of passing the qualifying examination i.e., 1 mark each of the completed year of waiting for employment subject to a maximum of 10 marks and the remaining 20 marks were earmarked for Government service on contract basis. The grievance of the petitioners necessitating to institute this writ petition was that the Government was not considering the services rendered by them for the purpose of awarding weightage marks in accordance with the above scheme. In the above backdrop, the petitioners instituted this writ petition praying to grant the following relief.

“... declaring the action of the respondents in not considering the case of the petitioners for assigning weightage marks in recruitments of staff nurses in Andhra Pradesh Medical and Health Services is arbitrary, illegal and violative of Articles 14 & 16(1) of Constitution of India...”

3. This Court, by order dated 02.02.2011, issued following direction.

“ I consider that it would be appropriate to direct the respondents to keep in view the decisions taken by the State Government and announced through their G.O.Rt.No.1539, dated 06.11.2010 and G.O.Rt.No.1064, dated 13.08.2010, while finalizing the selections.”

4. On behalf of the respondents, counter-affidavit is filed deposed by K.Ratna Kishore, who was then working as Principal Secretary to Government, Health, Medical and Family Welfare Department. It is stated in the counter-affidavit that in terms of the directions issued by this Court, as extracted above, the claims of the petitioners were considered. According to the respondents, the petitioners were initially appointed as Nurse Practitioners by A.P. AIDS Control Society on outsourcing basis in the year 2005. The scheme came to an end in the year 2010. Consequent to G.O.Rt.No.1064, dated 13.08.2010, all those nursing practitioners were taken into contract service under National Rural Health Mission. According to respondents, since the petitioners have completed only two months of contract service as on the date of notification, after their absorption into NRHM, no weightage for the

service was awarded to them. It is further averred that selections were finalized by duly considering the orders passed by this Court.

5. In view of the stand of the respondents that the petitioners have not completed the requisite qualifying service to award them marks for the service rendered and selections were already finalized, no relief can be granted and no cause in the writ petition survives for consideration. However, it is made clear that dismissal of the writ petition does not come in the way if the petitioners are aggrieved by not computing the earlier services rendered by them towards weightage of marks, it is open to them to workout their remedies as available in law.

6. The writ petition is accordingly dismissed. No order as to costs. Miscellaneous petitions pending, if any, shall stand closed.

P.NAVEEN RAO, J

Date: 19.07.2016

TJMR