

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.02.2017

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The Hon'ble Mr.Justice M.Sathyanarayanan

W.P.No.4253 of 2017
and
W.M.P.No.4405 of 2017

Mrs.P.Tamil Selvi

... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by the Principal Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai.
2. The Director of Medical and Rural Health Services,
Teynampet, Chennai – 600 018.
3. The Director of Medical Education,
Poonamallee High Road, Kilpauk,
Chennai – 600 010.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for a Writ of Mandamus, directing the respondents to include the petitioner's name (viz., P.Tamil Selvi CNL.No. 7970) in the promotion panel for the year 2006 and to place the petitioner at Serial Number 6 below Tmt.V.Susheela (CNL.No.7956) and above Tmt.Pannaiamma (CNL

No.8042) and to grant promotion to the petitioner herein to the post of Nursing Tutor Grade II with effect from 31.01.2006, the date on which, the petitioner's immediate junior Tmt. Pannaiammal was granted promotion.

For Petitioner : Mr.L.Murali Krishnan

For Respondents : Mr.R.A.S.Senthil Vel
Additional Government Advocate

O R D E R

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

2. The petitioner would aver that she joined the service as Staff Nurse from 30.08.1995, and she was assigned work at the Institute of Obstetrician and Gynecologist, and her services have been regularized with effect from 30.08.1995. Thereafter, she completed B.Sc. (Nursing) and continued to work as Staff Nurse in various Hospitals till 10.03.2004. The petitioner applied for leave to take up employment in Ling Kwang Home for Senior Citizen, Singapore, for a period of two years and necessary permission was also accorded by the Government, to leave for employment abroad. After completion of two years of service, again, she sought leave to work their for further period of two years, and it was also granted. Later, due to personal reasons, she returned to Chennai. The third respondent issued necessary

orders on 21.04.2007, and directed her to join duty as Nurse at the Institute of Mental Health, Chennai, on 23.04.2007. The grievance expressed by the petitioner is that, as per the initial order of appointment, Mrs.Pannaiammal was junior to her, as the said Mrs.Pannaiammal joined service on 29.09.1995 as Staff Nurse, whereas, the petitioner joined the service on 30.08.1995. The third respondent, vide proceedings, dated 31.01.2006, overlooked the petitioner's seniority, and promoted Mrs.Pannaiammal as Nursing Tutor Grade II, and after very many correspondences, the petitioner was granted promotion as Nursing Tutor Grade II, by the third respondent only on 02.03.2009. The petitioner, in this regard, submitted a representation to the second respondent, dated 19.09.2011, praying for inclusion of her name along with Mrs.Pannaiammal, and to give her promotion with effect from 31.01.2006. The Joint Director of Health Services, vide proceedings, dated 23.09.2011, bearing L.Dis No.8401/E1/2011, has forwarded the representation submitted by the petitioner to the third respondent, which was also followed by another communication, dated 29.09.2011, bearing L.DisNo.8882/E1/2011.

3. Mr.L.Murali Krishnan, learned counsel for the petitioner would

submit that though it was intimated that on account of the disciplinary proceedings, the claim of the petitioner came to be overlooked, the fact remains that, she was not even visited with any disciplinary proceedings and she was also not put on notice with regard to any disciplinary proceedings and in the absence of any disqualification, the claim of the petitioner has to be considered for promotion to the post of Nursing Tutor Grade II, with effect from 31.01.2006, where her immediate junior, Mrs.Pannaimmal got promoted as Nursing Tutor Grade II and prays for appropriate orders.

4. Per contra, Mr.R.A.S.Senthil Vel, learned Additional Government Pleader, who accepts notice on behalf of the respondents has drawn the attention of this Court to the representation, dated 20.01.2014 submitted by the petitioner and would submit that the petitioner herself has admitted about the disciplinary proceedings and in the light of the same, the claim made by her might have been overlooked and seeks time to get necessary instructions.

5. This Court has considered the rival submissions and perused the materials placed before it.

6. Though the petitioner prays for larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim expressed by the petitioner in the Writ Petition, directs the second respondent to consider the petitioner's representation dated 24.01.2012 as well as the reminder dated 20.01.2014, after putting on notice to the persons concerned and shall 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 as well as to the persons concerned.

7. This Writ Petition is disposed of accordingly. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

21.02.2017

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Index : Yes/No

M.Sathyannarayanan.J.,

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