

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.4529 of 2017

Dr.R.Shankar Shanmugam

..Petitioner

Vs

1. The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai -9.

2. The Director of Medical Education,
Poonamallee High Road,
Kilpauk,
Chennai - 600 010.

..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the 1st respondent to consider the petitioner for promotion to the post of Reader in Nursing (Research) as per the adhoc rules published in G.O.Ms.No.212 Health and family Welfare Department (Aa2) dated 31.08.2016 and consequently promote the petitioner to the post of Reader in Nursing (Research) for the panel year 2016-2017, by following the judgment in W.A.(MD) Nos.315, 355, 587, 869 an 826 of 2010 dated 27.04.2011 reported in 2011(3) CTC129.

For Petitioner : Mr.V.S.Jagadeesan

For Respondents : Mr.K.Dhananjayan
Special Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal. Mr.K.Dhananjayan, learned Special Government Pleader accepts notice on behalf of the respondents.

2. The petitioner was appointed as Staff Nurse in the Tamil Nadu Medical Subordinate Service on 01.10.1997 and got his promotion as Nursing Tutor Grade II on 10.07.2006. The petitioner also registered his name in the Tamil Nadu Nurses and Midwives Council and he has acquired the following additional

qualifications.

Educational Qualifications	Periods	
	From	To
B.Sc., (Nursing)	29.02.2000	27.02.2002
M.Sc., (Nursing)	31.10.2003	31.10.2005
Ph.D., (Paediatric Nursing)	2008	2012

3. The petitioner would further claim that in addition to the above educational qualification, he had published number of Scientific / Research Articles in the national and international journals and also received number of appreciations from the State Government and also received Best Nurse Award from Tamil Nadu Dr.M.G.R. Medical University and he has been nominated as a expert committee member for the preparation of Text book for Higher Secondary students for the subject Nursing. The petitioner was also nominated as a Liaison Officer for the upgradation of School of Nursing into a College of Nursing and also a Co-ordinator with Government of India for the above purpose and he was also guiding a Research Scholar (Ph.D) as a Guide/Supervisor and he is also a member of the Research Advisory Committee for six Research Scholars (Ph.D). At present, he is serving as Nursing Tutor Grade II in the Kasturba Gandhi Hospital for Women and Children and Government General Hospital, Chennai-5. According to the petitioner, there are 5 Nursing Colleges attached to various Government Medical College Hospitals and to cater to the needs of the students, the Government have sanctioned the following posts in the cadre of Reader in Nursing.

Sl.No.	Reader Posts in the specialty of Nursing	Number of posts
1.	Medical and Surgical	2
2.	Community Health	2
3.	Obstetrics and Gynaecology	1
4.	Psychiatry	1
5.	Paediatrics	1
6.	Nursing Research	1
7.	Nursing Administration and Education	1

4. The petitioner would further state that he possesses all the requisite /required qualifications prescribed in the Adhoc Rules which has also been published in Tamil Nadu Government Gazette dated 05.10.2016 and as such, there cannot be any impediment on the part of the respondents to consider the petitioner and promote him to the post of Reader in Nursing (Research).

5. Learned counsel for the petitioner has drawn the attention of the Court to the typed set of documents and would submit that as per G.O.(D)No.1618 of the 1st respondent dated 17.11.2016, one post of Reader in Nursing(Research) has been approved for the panel year 2016-2017 and since the petitioner is the only candidate available, there cannot be any impediment to consider his claim and would further aver that though the petitioner has suffered minor penalty, the currency of punishment has already been over and as such, his claim can be positively considered and he should be given promotion to the post of Reader in Nursing (Research)

6. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the respondents would submit that the petitioner, as a matter of right, cannot claim that he should be promoted to the said post and prays for time to get further instructions.

7. This Court carefully considered the rival submissions and also perused the typed set of documents.

8. Though the petitioner prays 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, directs the respondents to consider the representations dated 14.10.2016, 17.11.2016 and 16.02.2017 submitted by the petitioner on merits and in accordance with law and pass appropriate orders within a period of six 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.

s/d-
Assistant Registrar(CS-VI)

//True Copy//

Sub-Assistant Registrar

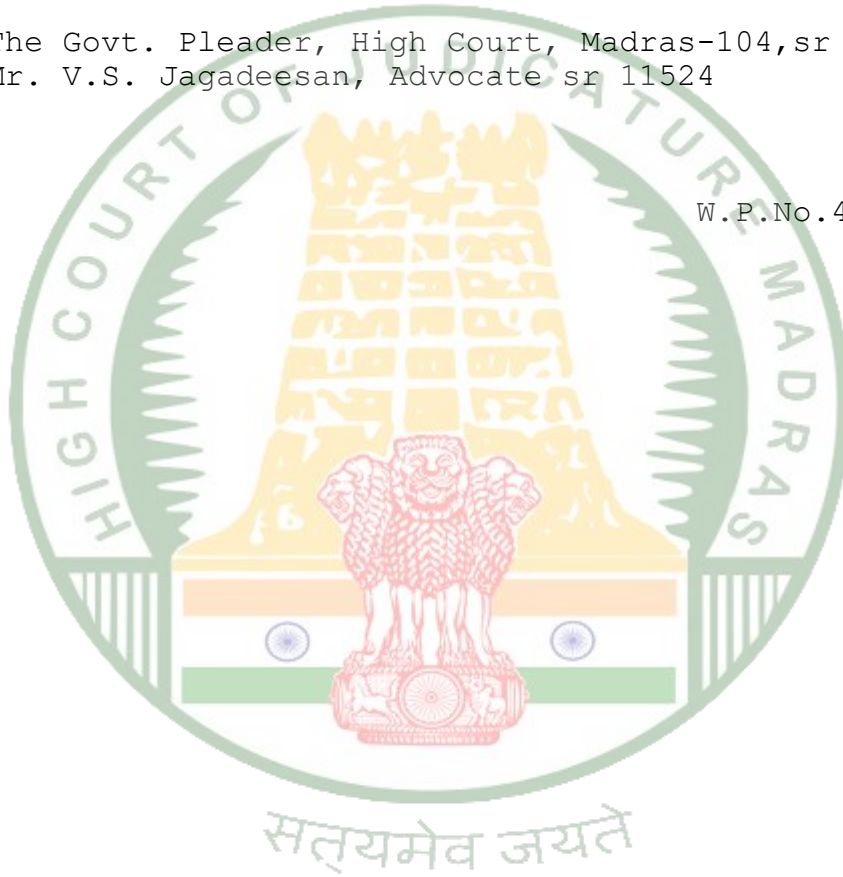
To

1. The Principal Secretary to Government,
Health and Family Welfare Department,
Secretariat,
Chennai -9.
2. The Director of Medical Education,
Poonamallee High Road,
Kilpauk,
Chennai - 600 010.

+1 CC to The Govt. Pleader, High Court, Madras-104, sr 13011
+1 CC to Mr. V.S. Jagadeesan, Advocate sr 11524

W.P.No.4529 of 2017

PPA (CO)
sp/28/2



WEB COPY