

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2017

CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND

THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.No.5292 of 2013 and
M.P.No.1 of 2013

M.Sivakarthiga

... Petitioner

Vs.

1. Union of India, rep. By Government
of Puducherry through the
Commissioner of Labour,
Labour Department, Puducherry.

2.P.Thirugnana Azhagu

3.G.Chitra

4.T.Hemalatha

5.K.Mathina

6.V.Vinothini

7.A.Arul Mathi

8.The Registrar,

Central Administrative Tribunal,
Chennai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India, praying for a Writ of Certiorarified
Mandamus, to call for the records of the 8th respondent in
respect of its decision in O.A.No.234 of 2010 dated 30.11.2012
and to quash the same and consequently to direct the first
respondent to appoint the petitioner to the post of Nursing
Orderly under the Physically Handicapped quota with effect from
the date on which the respondents 2 to 7 are appointed.

For Petitioner : Ms.Suvidha George

For Respondents: Mr.R.Syed Mustafa,
Special Government Pleader
for R1

For Respondents

3,6 & 7 : No appearance

For Respondents

4 & 5 : Not Ready in Notice

O R D E R

K.K.SASIDHARAN,J.

This writ petition is directed against the order dated 30 November, 2012 in O.A.No.234 of 2012 negating the claim made by the petitioner for appointing her as Nursing Orderly under the Physically Handicapped Category.

2. We have heard the learned counsel for the petitioner and the learned Special Government Pleader (Services) on behalf of the first respondent.

3. The first respondent issued a Notification, dated 5 January, 2009 calling for applications for appointment to the post of Nursing Orderly. The petitioner submitted application for appointment under the Scheduled Caste Category. There was no reservation for Physically Handicapped candidates and as such, the petitioner restricted her application under Scheduled Caste category. She was not selected. The petitioner, thereafter, challenged the Notification dated 5 January, 2009 on the ground that 3% of the vacancies were not reserved for Physically Handicapped candidates. The Tribunal, without giving relief to the petitioner, directed the Government of Puducherry, to issue a fresh notification for filling up the post of Nursing Orderly. The said order is put in issue in this writ petition.

4. The petitioner submitted her application for appointment under Schedule Caste Category, pursuant to the notification dated 5 January, 2009. There was no reservation for Physically Handicapped Category. The petitioner, without challenging the Notification submitted application for appointment. The petitioner was not selected. It was only thereafter, the petitioner challenged the legality and correctness of the Notification dated 5 January, 2009. The Tribunal, without setting aside the selection directed the first respondent to issue a fresh notification for appointment taking into account the vacancies.

5. There is no question of setting aside the Notification after completion of selection process and appointing the respondents 2 to 7 as Nursing Orderly (women). The petitioner ought to have challenged the Notification before submitting to the selection process. We are therefore of the view that the Tribunal was correct in directing the first respondent to ear

mark posts for Physically Handicapped candidates and issue fresh notification taking into account the Official Memorandum, dated 29 December, 2005. We are therefore of the view that no case is made out by the petitioner to take a different view in the matter.

6. In the up shot, we dismiss the writ petition. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

svki

To

1.The Commissioner of Labour,
Labour Department, Puducherry.

2.The Registrar,
Central Administrative Tribunal,
Chennai.

+1cc to M/s.Office of the Government Pleader sr.20882

+1cc to M/s.V.Ajaykumar,Advocate sr.20529

W.P.No.5292 of 2013

nr(co)
ss(20/6/2017)

सत्यमेव जयते

WEB COPY