

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Wednesday, the Sixteenth day of August Two Thousand Seventeen

PRESENT

THE HON`BLE MR JUSTICE S.M.SUBRAMANIAM

WMP NO.16975 OF 2017

IN WP.15682/2017

K.USHA

[PETITIONER]

Vs

1 THE GOVERNMENT OF TAMIL NADU [RESPONDENT]
REP BY MEMBER SECRETARY TO GOVERNMENT,
HEALTH & FAMILY WELFARE DEPARTMENT,
FOR SAINT GEORGE, CHENNAI-09

2 THE DIRECTOR OF MEDICAL
EDUCATION, KILPAUK, CHENNAI-10

3 DR.S.JAIKAILASH,
PROFESSOR,
DENTAL SURGERY,
COIMBATORE MEDICAL COLLEGE,
COIMBATORE.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

to issue an order of interim injunction restrains the official respondents from implementing the impugned seniority issued in the 2nd respondents proceedings in 1407/ E1/ 2/ 2017 dated 05.04.2017 in WMP.No.16975/17 in WP.No.15682/17.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.M.MUTHAPPAN, Advocate for the petitioner and of Mr.S.GUNASEKARAN, Additional Government Pleader on behalf of the Respondents the court made the following order:-

The Writ Petition has been filed challenging the seniority list for the higher category of Tutor/Assistant Professor, issued by the Director of Medical Education (FAC), Kilpauk, Chennai.

2.The writ petitioner challenges the seniority list on the ground that her name has not been considered for inclusion in the seniority list. However, the writ petitioner has not impleaded the candidates, who are all shown in the seniority list, as parties in this writ petition.

3.The learned counsel appearing for the writ petitioner contended that the Petition filed by the writ petitioner under 2A of the Appellate Side Rules is allowed by this Court and the fourth respondent has been impleaded in representative capacity, representing the other 58 persons, mentioned in the impugned seniority list.

4. May that it be. The order challenged in this Writ Petition is the seniority list and at the instance of writ petitioner, if the entire seniority list is stayed, the other eligible candidates due for promotion will be denied of their right of promotion. Therefore, this Court has to consider the balancing approach to be adopted while granting the interim order.

5.In the case on hand, the seniority list is under challenge in the Writ Petition. If the entire Seniority List is stayed at the instance of the one writ petitioner, all other qualified and eligible candidates who are arrayed in the seniority list will be denied of their right of promotion. Contrarily, in the event of succeeding in the writ petition, this Court can grant appropriate relief to the writ petitioner, if necessary, even with retrospective effect. This apart, stalling the entire seniority and the promotion will affect the effective administration of the Department and the rights of other eligible candidates in the seniority list need not be stopped at this stage at the instance of one petitioner and this Court is of the view that it is suffice that the rights of the writ petitioner is preserved.

6.Accordingly, in the event of succeeding in the writ petition, all suitable relief may be granted to the writ petitioner with regard to the seniority and promotion. Thus, the interim orders already granted stand vacated.

7.In the result, WMP.No.16975 of 2017 stands dismissed. Post the Writ Petition for final disposal, after four weeks.

-sd/-
16/08/2017
/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE GOVERNMENT OF TAMIL NADU
REP BY MEMBER SECRETARY TO GOVERNMENT,
HEALTH & FAMILY WELFARE DEPARTMENT,
FOR SAINT GEORGE, CHENNAI-09

2 THE DIRECTOR OF MEDICAL
EDUCATION, KILPAUK, CHENNAI-10

C.C. to M/S.M.MUTHAPPAN Advocate on payment of necessary charges

The Government Advocate, High Court, Madras - 104.

Order

in
WMP.16975/2017

in
WP.15682/2017

Date :16/08/2017

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
SDR 21.08.2017