

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2017

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.38484 of 2016
WMP.Nos.32961 & 32962/16

G.Vijayalakshmi

.. Petitioner

Vs

- 1.State Government of Tamil Nadu,
Rep. By its Principal Secretary,
Health and Family Welfare Department,
Fort St. George,
Chennai - 9.
- 2.Deputy Director of Medical Education,
Kilpauk, Chennai - 10.
- 3.Selection Committee,
Directorate of Medical Education,
Chennai - 10.
- 4.The Superintendent,
Government Head Quarters Hospital,
Kancheepuram.
- 5.The Dean,
Omayal Achi College of Nursing,
Chennai - 62.
- 6.The Dean,
Government General Hospital,
Chennai - 3.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the first respondent in letter No.36344/AA2/04-23 (H&FW) (AA2) Department, dated 24.04.2009, and forwarded through sixth respondent Ref.No.17533/E1/1/09, dated 09.09.2009 and consequential order of the second respondent in Ref.No.K.Dis.No.69719/MEH/2004, dated 26.05.2008, and the condition in the allotment order Ref.No.15/SCSIII/PG/2004, dated 31.05.2004 of the third respondent in respect of pay and allowance and quash the same and direct the respondents 1 to 3 to treat the two year course period of Post Graduate M.Sc., (Nursing) Course of the

petitioner from 30.05.2004 to May 2006 as deputation period and pay the full pay and allowances as applicable to the petitioner as per Clause VI of the prospectus 2004-2005 issued by the second respondent.

For petitioner : Ms.B.Saraswathi

For Respondents : Mr.V.Anandamoorthy, AGP

O R D E R

The present writ petition is directed against the impugned proceedings dated 24.04.2009 of the first respondent / the Principal Secretary to Government, Health and Family Welfare Department, Chennai, refusing to pay the full pay and allowances to the petitioner during her study period of PG Course in M.Sc (Nursing) between June 2004 and May 2006.

2. Heard the learned counsel appearing on either side.

3. The petitioner was selected as Staff Nurse by the second respondent on 25.02.1981 in ESI Hospital, Vellore, after completion of 3 ½ years Trainee Nurse Course in Government Stanley Hospital. In the year 1983, she was transferred to Stanley Government Hospital, Chennai, where she continued till 20.11.1989. Whiles, the second respondent had implemented a scheme stating that Nurses working in the Tamil Nadu Government are to be selected among the staff nurses to undergo B.Sc. (Nursing) Course, as a service candidate, and during the study period of 2 ½ years, full pay and allowances of staff nurse are to be paid by the second respondent to the said Nurses on executing a bond that they will continue to work with the Government for a period of five years.

4. On the basis of the above said scheme, the petitioner was selected to undergo B.Sc. (Nursing) course at Madras Medical College from 20.11.1989 till 1992 and during the said period of 2 ½ years, she was also paid with full salary. Thereafter, she was posted as Nurse in Stanley Government Hospital from 20.05.1992 till 31.08.2000 and finally, on getting promotion to the post of Nursing Tutor Gr.II, she was transferred to the School of Nursing Government Head Quarters Hospital, Kancheepuram, where she worked from 20.02.2004 till 31.05.2004.

5. While the matter stood above, the second respondent issued a prospectus for admission to Post Graduate M.Sc. (Nursing) Degree course in Government Medical/Self Financing Institutions, Tamil Nadu, for the year 2004-05 for the service and non-service candidates. The petitioner, being a service candidate applied for the said course, through proper channel, and thereafter, she was also selected for admission to the said Course for the academic year 2004-2005 and thereby she was allotted to fifth respondent College and in the allotment order, it is stated that she has to join the College on or before 31.05.2004, therefore, she had also joined in the said College on 31.05.2004 by paying the prescribed fees of Rs.55,000/-. It is also further stated in the allotment order that the service candidates selected in Self-Financing Colleges will not be paid pay and allowances by the Government. Since she was not paid with salary during the period she studied M.Sc. Course, she made several representations to the authorities, but, all went in vain as she did not receive any reply from them.

6. It is also seen that in a similar case, the Government have issued orders in G.O.Ms.No.147, Health and Family Welfare Department, dated 28.08.2006, in the case of one R.Lakshmi and granted pay and allowances for the period of her study in a private medical college i.e. Christian Medical College, Vellore. Therefore, the petitioner, after her retirement, along with three others have made a representation to the respondents on 02.12.2015 requesting to regularize their study period i.e. from June 2004 to May 2006 as done in the case of one R.Lakshmi. However, the first respondent, by impugned order dated 24.04.2009, rejected their request of pay and allowances as not feasible for compliance. Aggrieved by the same, another two individuals have filed Writ Petition Nos.3628 of 2005 and 928 of 2010 and this Court, by order dated 22.11.2011, set aside the impugned order dated 24.04.2009 refusing to sanction pay and allowances during their study period of PG Course. Pursuant to the order of this Court, the first respondent, vide G.O.(2D) No.17, Health and Family Welfare Department (AA2), dated 27.02.2014, has complied with the said order of this Court.

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7. In such view of the matter, since the impugned proceedings of the first respondent have already been set aside by this Court in W.P.Nos.3628 of 2005 and 928 of 2010, dated 22.11.2011, and thereafter, the Government have also complied with the order of this Court, this Court finds no impediment to allow the writ petition. Accordingly, the respondents are directed to pay the full pay and allowances to the petitioner

during her study of PG Course between June 2004 and May 2006, within a period of four weeks from the date of receipt of a copy of this order. In fine, the writ petition is allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

rkm

Sub Asst. Registrar

To

- 1.The Principal Secretary, Government of Tamil Nadu,
Health and Family Welfare Department,
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Chennai - 9.
- 2.Deputy Director of Medical Education,
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Chennai - 62.
- 6.The Dean,
Government General Hospital,
Chennai - 3.

+1cc to Mr.B.Saraswathi, Advocate sr.14481

+1cc to Government Pleader sr.14726

rk(co)
ss(14/3/2017)

W.P.No.38484 of 2016