



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2017

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THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P. (MD) No.9559 of 2014

A.Bala Subramaniyan
Secretary,
Male Nursing Assistant Association,
Government Rajaji Hospital,
Madurai.

... Petitioner

Vs.

1. The State of Tamilnadu,
Rep. By the Secretary,
Department of Health and Family Welfare,
Fort St.George, Chennai-09.
2. The Director of Medical Education,
Directorate of Medical Educational,
Kilpauk, Chennai-10.
3. The Dean,
Government Rajaji Hospital,
Madurai.
4. The Medical Superintendent,
Government Rajaji Hospital,
Madurai.
5. The Residential Medical Officer,
Government Rajaji Hospital,
Madurai.
6. M.Venkatachalam,
Sergeant,
Government Rajaji Hospital,
Madurai.

.. Respondents

(R6 impleaded as per order dated 01.07.2014 in
M.P. (MD) No.1 of 2014)

PRAYER:- Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to take necessary action on the basis of the petitioner's representations dated 11.01.2014 and 04.06.2014 with regard to allotment of work made by the sergeant against the Medical Standing order.



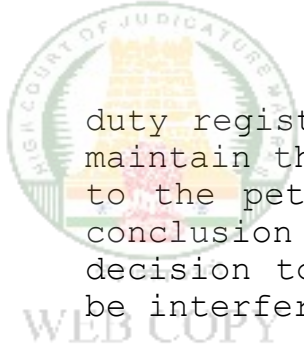
For Petitioner : Mr.D.Anbarasu
For R1 to R5 : Mr.D.Muruganantham
Additional Government Pleader

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ORDER

The Writ Petition has been filed to direct the respondents to take necessary action on the basis of the petitioner's representations dated 11.01.2014 and 04.06.2014 with regard to allotment of work made by the sergeant against the Medical Standing orders and pass necessary orders.

2.The case of the petitioner is that he is working as Male Nursing Assistant in the third respondent hospital, namely, Government Rajaji Hospital and all of the workers thereon having an association and thus, the people working as Male Nursing Assistants have an association. While the petitioners were appointed their supervisor as per the seniority work basis, namely, Lab Technician, Theatre Assistant, Junior Assistant, Radio Grapher etc., and their duty of work will be allotted only by the Supervisor / Residential Medical Officer of that particular ward Male Nursing Assistant. Sergeant is a person, who at the time of initial appointment, may work as watchman, lascar, gardener, stretcher barer and then promoted as Sergeant. It is seen from the documents produced that the Sergeant has been allotting the work and he put his signature on 06.05.2014, in one of the register, which is the work allotment to the Male Nursing Assistant from 07.05.2014 to 04.08.2014. As Sergeant, his work is only to maintain the duty register by keeping the attendance. When all along the supervisor, who is having full knowledge of the nature of work of the staff, has been discharging his duty by maintaining the Duty Register, if the said duty is shifted and given to the Sergeant, it would be difficult for the Sergeant to handle the new assignment, which will cause prejudice to the staff members. As the proceedings dated 08.11.2011 in ஓ.பு.எண்.49514/நி-4(2)/2011 is vague, the same was continued now also. The Attendance Register is under the control of the Sergeant and absolutely no power has been given to the Sergeant to allot duty and it has to be provided by the concerned Resident Medical Officer. Since the same was not followed, the petitioners filed the writ petition in W.P.(MD) No.13795 of 2011. The learned Special Government Pleader appearing for the respondents in the said Writ Petition submitted that when there are Male Nursing Staff and Female Nursing Staff working in the said hospital, the Director of Medical Education, Chennai, second respondent herein finding that the old practice of maintaining the Duty Register including marking of attendance of their staff by the supervisor was not working satisfactorily, decided to hand over the said assignment to the Sergeant. In view of the said submission of the learned Special Government Pleader, the learned Single Judge held that as it is a mere administrative decision entrusting the work of maintaining the



duty register to the Sergeant, he did not find the communication to maintain the duty register by the Sergeant would cause any prejudice to the petitioners. Further, the learned Single Judge came to the conclusion that when the Director of Medical Education had taken a decision to tune up administration of the hospital, the same cannot be interfered by this Court and hence, dismissed the Writ Petition.

3. Aggrieved by the said order, the petitioner therein preferred an appeal in W.A.(MD) No.76 of 2012 and by order dated 10.12.2013, this Court had disposed of the appeal, wherein the Honourable Division Bench clarified that the impugned order of the second respondent speaks very clearly that the Sergeant will maintain the attendance register of the Male Nursing Assistants in the Government Rajaji Hospital, as it is in vogue in other Government hospitals and not more than that. To that extent, there can be no confusion. As per the impugned standing order, the duty of the Sergeant is only to maintain the attendance register. In spite of this, against the same, the Sergeant has allotted the work of the Male Nursing Assistants from 07.05.2014 to 04.08.2014, which is available in page 31 and 32 of the typed set of papers filed by the petitioner, wherein the Sergeant has signed in the left side corner on 06.05.2014.

4. Aggrieved by this, on 04.06.2014, a legal notice was sent to the third respondent by the petitioner and there was no reply for the said legal notice. Hence, the Secretary of the Male Nursing Association has filed the present Writ Petition.

5. From the perusal of the order dated 10.12.2013, made in W.A. (MD) No.76 of 2012, it is clear that the Sergeants are allowed only to maintain the attendance register of the Male Nursing Assistants and there is no other powers of allotment of duty was given to Sergeants and they will not be allowed to interfere in the allotment of duty and only the concerned Resident Medical Officers / Supervisors are allowed to allot the duty. The impugned order relating to the maintenance of attendance register only. Accordingly, the Sergeant is directed to maintain the attendance register only. The register regarding their attendance and duty allotment to the Nursing Assistants should be done only by the concerned Resident Medical Officer. This court directs the concerned Resident Medical Officer to allot duty to the Nursing Assistants and the Dean is directed to give advice to the Sergeant, if any grievance is raised by them.

6. Accordingly, the Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar (T&P)

/True Copy/



To

1. The Secretary,
Department of Health and Family Welfare,
Fort St. George, Chennai-09.

2. The Director of Medical Education,
Directorate of Medical Educational,
Kilpauk, Chennai-10.

3. The Dean,
Government Rajaji Hospital,
Madurai.

4. The Medical Superintendent,
Government Rajaji Hospital,
Madurai.

5. The Residential Medical Officer,
Government Rajaji Hospital,
Madurai.

6. M.Venkatachalam,
Sergeant,
Government Rajaji Hospital,
Madurai.

+ 1 CC TO Mr.D.ANBARASU, ADVOCATE IN SR No. 93415

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 93350

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TE/SKN-RSK/SAR-4 : 04/04/2018 : 4P/9C

W.P. (MD) No. 9559 of 2014
15.12.2017