

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2018

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble Ms.JUSTICE P.T.ASHA

W.P. No.31213 of 2017 and
WMP.NOS.34272 OF 2017 AND 11718/2018

N.Ganesh

.. Petitioner

-vs-

- 1.The Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Chennai - 600 009.
 - 2.Tamil Nadu MRB Nurses Empowerment Association,
No.332, 10th Street,
Thirumalai Nagar,
Chithalapakkam,
Chennai - 600 064.
 - 3.MRB Nurses Welfare Association,
No.11/20, VOC Street,
Tindivanam,
Villupuram District - 604 001.
 - 4.The Union of India,
through its Secretary,
Ministry of Health and Family Welfare Department,
New Delhi.
- .. Respondents

(Fourth respondent impleaded as per the order
of this Court dated 12.1.2018)

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus directing the first respondent to take action against members of the second and third respondents Association and the contract nurses employed with the Government Hospitals in Tamil Nadu, from resorting to any kind of agitations, strike and refusal to work or abstaining from discharging their duty and obligation attached to their employment.

For Petitioner : Mr.G.Saibaba
For Respondents : Mr.Vijay Narayan
Advocate General
assisted by
Mr.T.N.Rajagopalan
Government Pleader(I/C)
for 1st respondent

Mr.Puzhal Gandhi
for 2nd respondent

Mr.P.Wilson
Senior Counsel
for Mr.S.Prasath
for 3rd respondent

Ms.Meenakumari
CGSC for 4th respondent

O R D E R
(Made by Ms.Indira Banerjee, Chief Justice)

By a Government Order being G.O.(Ms) No.323, dated 13.6.2018, issued by the Health and Family Welfare (EAP II) Department of the Government of Tamil Nadu, salary of contract Nurses under National Health Mission has been enhanced from Rs.7,700/- to Rs.14,000/- with an annual increment of Rs.500/- with effect from 1.4.2018. Further, Rs.14,000/- is to be taken as basic and yearly increment of Rs.500/- per annum over and above the basic Rs.14,000/-, is to be paid in addition based on the years of experience, ensuring the senior Staff Nurses receive higher pay than the juniors after the revision. EPF and ESI are also to be met through National Health Mission, which were approved in Record of Proceedings. The directions of this Court regarding enhancement of salary of the contract Nurses has been complied with.

2. By an order dated 11.6.2018, this Court observed that the factual issue of whether the duties of the contract Nurses were the same as the duties performed by the regular Government Nurses would have to be decided on a case to case basis, as held by the Supreme Court in State of Punjab and others v. Jagjit Singh, reported in (2017) 1 SCC 148. This Court, directed the Core Committee constituted pursuant to the order of this Court to complete the exercise within a period of six months from date.

3. In its aforesaid order dated 11.6.2018, this Court also recorded the submission that 204 Nurses had been regularised. This Court directed that the authorities should consider regularisation of the others at the earliest, subject to the existence of vacancies. The matter was directed to be listed today for reporting compliance.

4. As observed above, the order of this Court for enhancement of salary of the contract Nurses has been complied with. The exercise of scrutinizing the duties performed by the contract Nurses, to ascertain whether they perform the same duties as regular Government Nurses appointed in Government hospitals, and thus entitled to the same pay and emoluments, which has to be done on a case to case basis shall be completed by the Core Committee within six months as earlier directed.

5. Learned counsel appearing on behalf of the second respondent submitted that the writ petition be kept pending and directed to be listed some time in February, 2019.

6. We are of the view that no useful purpose would be served by keeping this writ petition pending because once a decision is taken, if the decision is adverse to all or any of the contract Nurses, the matter will have to be decided on a case to case basis on the basis of the facts brought on record before the Court.

7. The writ proceedings are, therefore, closed. Needless to mention that if any of the contract Nurses are aggrieved by the decision taken by the Core Committee, they may approach this Court in accordance with law. No costs. Consequently, WMP.Nos.34272 of 2017 and 11718 of 2018 are closed.

सत्यमेव जयते Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

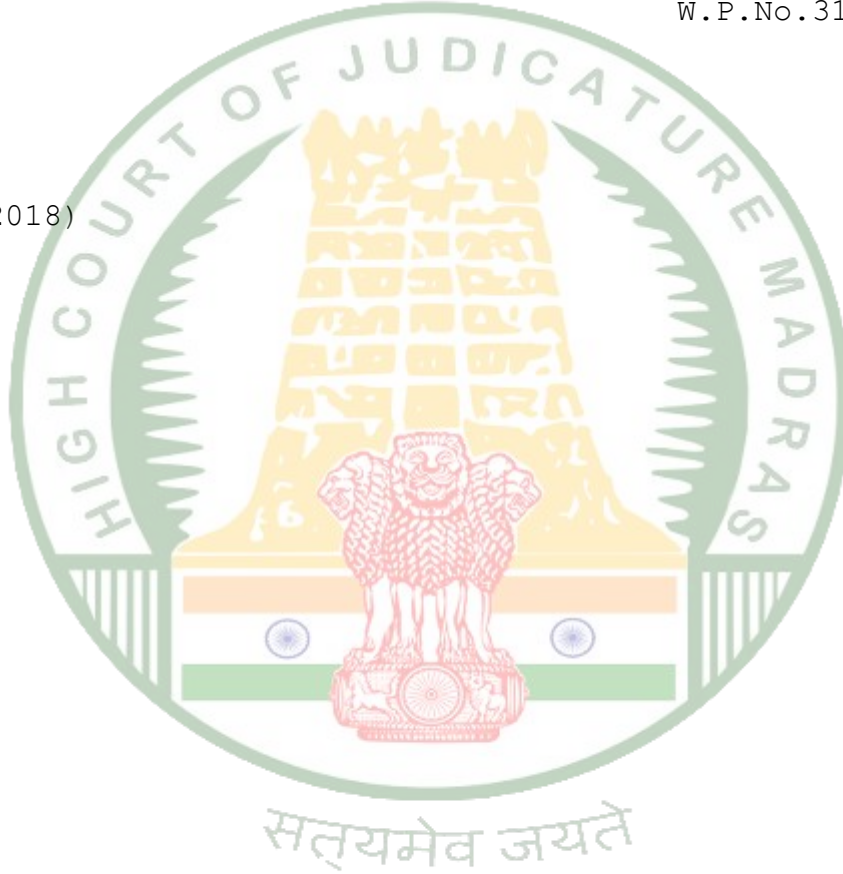
1.The Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai - 600 009.

2.The Secretary, Union of India,
Ministry of Health and Family
Welfare Department, New Delhi.

+lcc to Mr.S.Prasath, Advocate SR.No.36736

W.P.No.31213 of 2017

NMI (CO)
GN(11/07/2018)



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