



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2018

CORAM:

THE HONOURABLE Mr.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .No.122 of 2018

and

C.M.P. (MD)No.635 of 2018

1. The State of Tamil Nadu,
Rep. By its Secretary,
Health and Family Welfare Department,
Secretariat, Chennai.
2. Medical Services Recruitment Board,
7th Floor, DMS Building,
359, Anna Salai,
Chennai - 600 006.
Rep. By its Member Secretary. ... Appellants

Vs.

S. Baby Francisca Mary ... Respondent

PRAYER: This petition is filed under Under Clause 15 of Letters Patent, to set aside the order dated 03.10.2016, made in W.P.(MD) No.13202 of 2012.

Prayer in WP(MD). 13202/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIIFIED MANDAMUS, calling for the records relating to the impugned Notification No.19/MRB/2012 dated 24-09-2012 and the consequential call letter in Na.Ka.No.38/MSRB/2012 dated Nil-09-2012 issued by the 2nd Respondent and quash the same as illegal in so far as it relates to the stipulation that students who have studied in the list of 8 private institutions alone are eligible to participate in the Certificate Verification is concerned and consequently direct the 2nd Respondent to consider the petitioner for the appointment to the post of Village Health Nurse.

For Appellant No.1 : Mr.V.R.Shanmuganathan
Special Government Pleader

For Appellant No.2 : Mr.T.S.Mohammed Mohideen

For Respondent : Mr.M.E.Ilango

**JUDGMENT**

(Judgment of this Court was made by **N.KIRUBAKARAN, J**)

By consent, the writ appeal is taken up for final disposal at the stage of admission itself.

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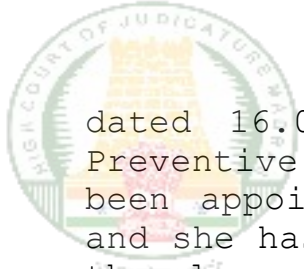
2. Heard Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the first appellant, Mr.T.S.Mohamed Mohideen, learned counsel appearing for the second appellant and Mr.M.E.Ilango, learned counsel appearing for the respondent.

3.This appeal has been preferred by the State against the order passed by the learned Single Judge, in and by which, the writ petition filed by the respondent was disposed of with a direction to the appellants herein to call for the respondent herein for the post of Village Health Nurse and make enquiry and verify the Certificates by taking into account that the respondent has undergone the course in the Christian Fellowship Hospital, Oddanchatram, Dindigul District and registered her certificate at the Tamil Nadu Nurses and Midwives Council and appoint her as Village Health Nurse. The respondent has challenged the notification dated 24.09.2012 by which, applications were called for recruitment for the post of Village Health Nurses in 543 vacancies in Public Health Department and the respondent was not selected as she got the Certificate from an institution which was not listed in the notification issued by the second appellant. Therefore, the challenge was made before the learned Single Judge.

4.When the matter was pending before the learned Single Judge, the second appellant produced G.O.Ms.No.204 Health and Family Welfare (L2) Department, dated 12.08.2016, in and by which, all the Private Auxiliary Nurse and Midwife Schools have been recognised and the students who are undergoing the course are entitled to participate in the recruitment process. Based on that, the learned Single Judge disposed the writ petition directing the appellants to call for the respondent and verify her Certificates and appoint her as Village Health Nurse.

5.Since the respondent studied in the Christian Fellowship Hospital, Oddanchatram, which is also a recognised institution by the Government, Indian Nursing Council and registered in Tamil Nadu Nurses and Midwives Council, she is entitled to participate in the recruitment as per G.O.Ms.No.204 dated 12.08.2016. Therefore, based on the above said G.O.Ms, dated 12.08.2016, the learned Single Judge has passed the order. Therefore, the said order cannot be interfered with.

6.Today, when the appeal came up for hearing, Mr.T.S.Mohammed Mohideen, learned counsel for the second appellant produced a copy of the proceedings in R.No.28723/MP3/S2/2011,



dated 16.05.2017 issued by the Director of Public Health and Preventive Medicine, Chennai and submitted that the respondent has been appointed as Village Health Nurse in Primary Health Centre and she has joined duty on 30.05.2017. He further pointed out that the learned Single Judge has passed a positive direction to appoint the respondent in a particular post and for that purpose only the writ appeal has been preferred.

7. Though the mistake seems to be on the Government, there cannot be a positive direction to appoint the respondent in a particular post by this Court and if at all a direction can be given, it can only follow the procedure in the light of the order passed by this Court. Therefore, Paragraph No.20 of the order of the learned Single Judge is modified to the following effect that,

"the respondents are directed to call for the petitioner for the post of Village Health Nurse and make enquiry and verify the certificates by taking into account that the petitioner has undergone the Course in the Christian Fellowship Hospital, Oddanchatram, Dindigul District and registered her certificate at the Tamil Nadu Nurses and Midwives Council."

8. It may look as if the respondent has got benefit out of the order of the learned Single Judge, however, the learned counsel for the respondent would submit that the respondent has participated in the recruitment process by virtue of the another notification issued by the Medical Services Recruitment Board. Taking into consideration of the above facts, no further order is necessary in this Writ Appeal.

9. With the above direction, this writ appeal is disposed of. No Costs. Consequently, the connected miscellaneous petition is also closed.

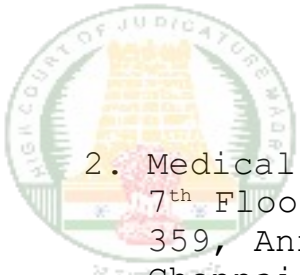
Sd/-
Assistant Registrar (CS-III)

/True copy/

Sub Assistant Register

To

1. The Secretary,
The State of Tamil Nadu,
Health and Family Welfare Department,
Chennai.



2. Medical Services Recruitment Board,
7th Floor, DMS Building,
359, Anna Salai,
Chennai - 600 006.
Rep. By its Member Secretary.

MRN/NS

VB/SKN/RSK/SAR4/22.02.2018/4P/3C

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