



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.14861 to 14864 of 2015
and
MP(MD)Nos.1, 1, 1, and 1 of 2015

D.Manivannan ... Petitioner in W.P(MD)No.14861/2015
S.K.Balaji ... Petitioner in W.P(MD)No.14862/2015
J.Vijayarajkumar ... Petitioner in W.P(MD)No.14863/2015
F.Francis Moses ... Petitioner in W.P(MD)No.14864/2015

vs.

1.The Secretary,
Tamil Nadu Public Service Commission,
Frazer Bridge Road,
V.O.C.Nagar,
Park Town,
Chennai - 600 003.

2.The Secretary to Government,
Health and Family Welfare Department,
St. George Fort,
Secretariat,
Chennai.
(R2 impleaded vide order dated 19.08.2015)

... Respondents in all W.Ps.

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents to permit the petitioners to participate in the post of maternal and child health officer included in Tamil Nadu Health service without insisting a Certificate of registration in section 1-C of the Register of Midwives under the Tamil Nadu Nurses and Midwives Act, 1926 as per the Serial No.4(B) of the Notification No.11/2015 dated 31.07.2015 and consequently appoint them in the post of Maternal and Child health officer.



For R1

Special Government Pleader
: Mr.K.K.Senthil
in all the writ petitions.

COMMON ORDER

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These writ petitions have been filed seeking a direction to the respondents to permit the petitioners to attend examination for the post of Maternal and Child Health Officer, without insisting a certificate of registration in section 1-C of the Register of Midwives under the Tamil Nadu Nurses and Midwives Act, 1926 and consequently appoint them in the post of Maternal and Child Health Officer.

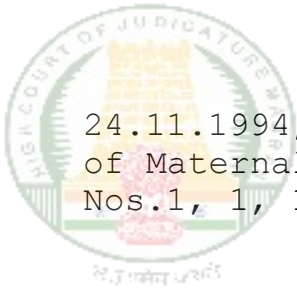
2.Heard the learned counsel for the petitioners; the learned Special Government Pleader for the first respondent and the learned counsel for the second respondent.

3.The learned counsel appearing for the petitioners submitted that the petitioners have completed B.Sc., (Nursing) and subsequently the petitioners in WP(MD)Nos.14861 and 14863 of 2014 have completed Ph.D., in Nursing and the petitioners in WP(MD) Nos.14862 and 14864 of 2015 have completed M.Sc., (Nursing). However, they were not permitted to attend examination for the post of Maternal and Child Health Officer, since they have not possessed of the certificate of registration under Section 1(C) under the Tamil Nadu Nurses and Midwives Act, 1926. According to the learned counsel, at the time of pursuing the Course, there is no syllabus for male in respect of Midwifery and there was no option to register as a Midwives in Section 1(C) for male B.Sc., (Nursing). Therefore, the petitioners made representations dated 05.08.2015 and 07.08.2015, seeking permission to apply for the said post. But, as on date, no action has been taken by the respondents. Hence, these writ petitions have been filed.

4.The learned counsel appearing for the second respondent submitted that the post of Maternal and Child Health Officer is governed by the existing *ad hoc* rules framed in G.O.Ms.No.861, Health and Family Welfare Department, dated 24.11.1994 and as per the said Government Order, the candidates who acquired B.Sc., (Nursing) and registered with Council as Registered Nurse & Registered Midwife or Registered Nurse and Midwifery, are eligible for the said post. The petitioners, who registered as Psychiatric Nurse are not eligible for the said post. Hence, the claim of the petitioners cannot be considered. However, the petitioners can challenge the said Government Order.

5.At this juncture, the learned counsel appearing for the petitioners seeks liberty to challenge the Government Order in G.O.Ms.No.861, Health and Family Welfare Department, dated 24.11.1994.

6.In such view of the matter, these writ petitions are disposed of, giving liberty to the petitioners to challenge G.O.Ms.No.861, Health and Family Welfare Department, dated



24.11.1994, which directly affects their right to apply for the post of Maternal and Child Health Officer. No costs. Consequently, MP(MD) Nos.1, 1, 1 and 1 of 2015 are closed.

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Sd/-

Assistant Registrar (CS I)

Sub Assistant Registrar (CS)

To

1 The Secretary,
TNPSC,
Fazer Bridge Road,
VOC Road,
Park Town, Chennai-3.

2 The Secretary to Government,
Health and Family Welfare Department,
St. George Fort,
Secretariat, Chennai.

+1cc to Mr.K.K.SENTHIL, Advocate, SR.No.51422

+1cc to M/s.Special Government Pleader, SR.No. 51326

W.P(MD) No.14861 to 14864 of 2015

MJ

KK/SAR-/25.03.2019/3P-5C

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