



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE R.MAHADEVANW.P(MD) No.15039 of 2015andMP(MD)No.1 of 2015

M.Kandasamy

... Petitioner

vs.

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

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

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the respondents to permit the petitioner 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 him in the post of Maternal and Child health officer.

For Petitioner : Mr.J.Jeyakumaran
For R1 : Mrs.J.Padmavathy Devi
Special Government Pleader
For R2 : Mr.K.K.Senthil

O R D E R

This writ petition has been filed seeking a direction to the respondents to permit the petitioner 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 him in the post of Maternal and Child Health Officer.

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

3. The learned counsel appearing for the petitioner submitted that the petitioner has completed B.Sc., (Nursing) and subsequently completed Ph.D., in Nursing. However, the petitioner was not permitted to attend examination for the post of Maternal and Child Health Officer, since he has 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 petitioner made a representation dated 05.08.2015, seeking permission to apply for the said post. But, as on date, no action has been taken by the respondents. Hence, this writ petition has 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 petitioner, who registered as Psychiatric Nurse is not eligible for the said post. Hence, the claim of the petitioner cannot be considered. However, the petitioner can challenge the said Government Order.

5. At this juncture, the learned counsel appearing for the petitioner 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, this writ petition is disposed of, giving liberty to the petitioner to challenge G.O.Ms.No.861, Health and Family Welfare Department, dated 24.11.1994, which directly affects his right to apply for the post of Maternal and Child Health Officer. No costs. Consequently, MP (MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar (CRL SIDE)

// True Copy //



To

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

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 51329

W.P(MD) No.15039 of 2015

TR (19.03.2019) 3P 3C