

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.11711 of 2013

And

M.P.No.1 of 2013

1.E.Jaichandran
2.P.Muthukrishnan

...Petitioners

Vs.

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

...Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records connected with the Government Letter issued in Letter No.26950/C2/2012-2, dated 31.12.2012 passed by the respondent herein and quash the same and consequently direct the respondent to disburse one advance increment to the petitioners for the post of Male Nursing Assistant.

For Petitioners : Mr.S.Ilamvaludhi

For Respondent : Mr.S.Thangavel
Special Government Pleader

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records connected with the Government Letter issued in Letter No.26950/C2/2012-2, dated 31.12.2012 passed by the respondent and to quash the same and to consequently direct the respondent to disburse one advance increment to the petitioners for the post of Male Nursing Assistant.

2.The case of the petitioners is that the petitioners joined the service as Male Nursing Assistant on 09.01.1977 and 12.10.1976 respectively and retired from service on 30.11.2010 and 31.12.2008 respectively. According to the petitioners, as per G.O.Ms.No.747, Health and Family Planning Department, dated 29.03.1976, they are entitled to get one increment for the said

post. Hence, the petitioners made representation seeking one increment to the Department and since no orders were passed, they filed W.P.No.16292 of 2012 before this Court. Pursuant to the order of this Court dated 27.06.2012 made in W.P.No.16292 of 2012, the respondent passed the impugned letter rejecting the claim of the petitioners. Aggrieved by the same, the petitioners have filed this writ petition.

3.The learned counsel appearing for the petitioners would submit that as per G.O.Ms.No.747, Health and Family Planning Department, dated 29.03.1976, the petitioners are entitled to get one increment because their age of retirement is 58 years, whereas, the age of retirement of the Hospital Workers is 60 years. He would further submit that earlier the Government issued G.O.(Ms) No.634, Health, dated 18.03.1972 classifying the Nursing Assistants as belonging to superior service.

4.The learned counsel appearing for the petitioners would further submit that the respondent has rejected the claim of the petitioners stating that one advance increment be granted to the Nursing Assistants who have undergone training for a period of one year and who have opted for superior service from basic service by recruitment. Since the petitioners have been recruited directly for the post of Nursing Assistant which is already a superior service, they are not entitled to one advance increment which is un-sustainable. Hence, the impugned letter is liable to be quashed.

5.Per contra, the learned Special Government Pleader appearing for the respondent would submit that as per G.O.Ms.No.747, Health and Family Planning Department, dated 29.03.1976, the Nursing Assistants who opted to superior service be granted one advance increment from the day following the last day on which the individual completes the one year period of training. He would further submit that the petitioners have not undergone the one year period of training, which is mandatory as per the said Government Order.

6.Since the petitioners have not undergone the one year period of training, which is mandatory as per G.O.Ms.No.747, Health and Family Planning Department, dated 29.03.1976, this Court is not inclined to interfere with the impugned letter.

7.The writ petition is accordingly dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

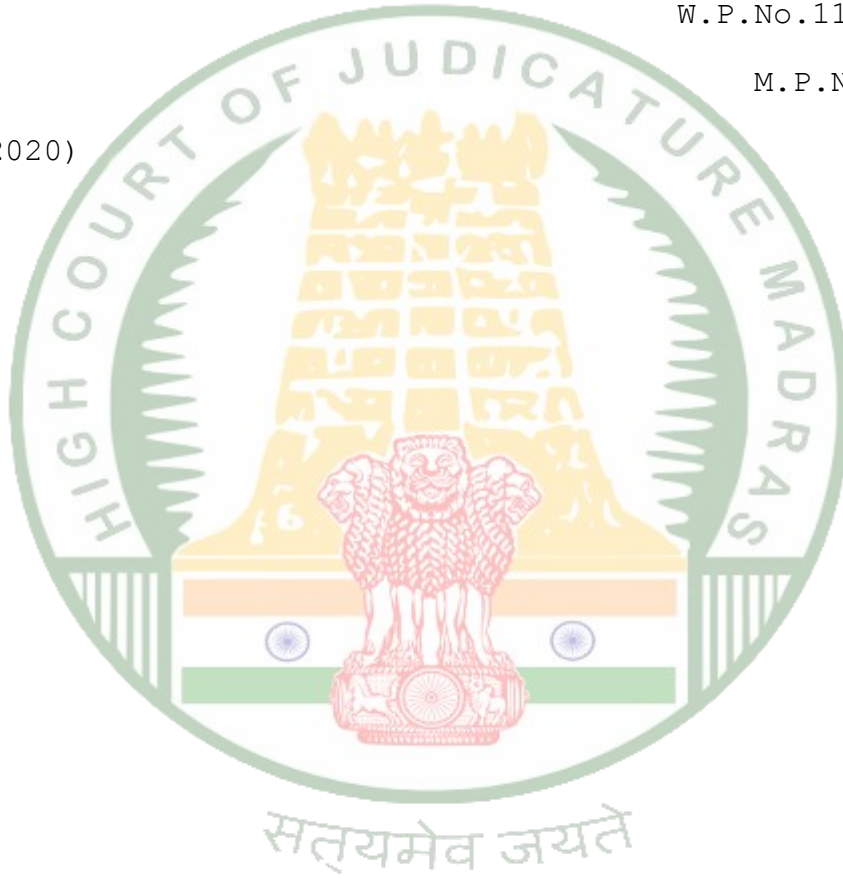
To

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

+1cc to Mr.S.Ilamvaluthi, Advocate in SR.NO..28084
+1cc to the Government Pleader in SR.NO..28351

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RV(05/11/2020)



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