



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.08.2020**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.10308 of 2020

and

W.M.P.(MD) No.9179 of 2020

(Through Video conferencing)

Dr.T.M.Senthiasasi

...Petitioner

-Vs-

1.The Government of Tamilnadu,
rep. by its Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai - 600 009.

2.The Director/Commissioner,
Directorate of Indian Medicine and
Homeopathy,
Chennai -600 106.

3.The Principal,
Government Ayurveda Medical College
and Hospital,
Kottar, Nageroil,
Kanyakumari District.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of mandamus, directing the respondents to confirm and regularize the petitioner in the post of Reader in the Department of Kaumarabhritya in the 3rd respondent college by considering her lengthy service in the said post having been appointed pursuant to the proceedings dated 30.12.2014 under Reference No.2815/E/2014 on the file of the 3rd respondent with all monetary, attendant and consequential benefits as from the date of her appointment namely 30.12.2014 forthwith.

For Petitioner : Mr.J.Sankarapandian

For Respondents : Mr.S.Dhayalan, G.A.

ORDER

The prayer sought for in this writ petition is for a writ of mandamus, directing the respondents to confirm and regularize the petitioner in the post of Reader in the Department of Kaumarabhritya in the 3rd respondent college by considering her lengthy service in the said post having been appointed pursuant to the proceedings dated 30.12.2014 under Reference No.2815/E/2014 on the file of the 3rd respondent with all monetary, attendant and consequential benefits as from the date of her appointment namely 30.12.2014 forthwith.

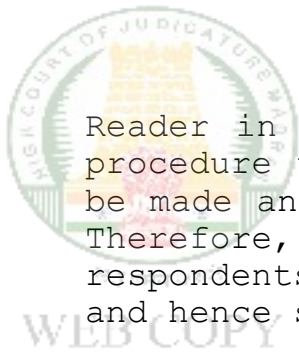


2.The petitioner with the qualification of Graduation in Ayurveda Medicine and Post Graduation in Kaumarabhritya was appointed as Assistant Medical Officer (Ayurveda) in Government Primary Health Centre at Muthur, Erode District on 05.06.2008. Since then, she had been working there and her service also has been regularised. Since the petitioner already possessed the post graduation in Ayurveda, she was posted on deputation at Government Ayurvedic College Hospital at Kottar, Nagercoil District with effect from 18.08.2009. Since then, she has been serving there and her name has been included in the list of Faculties made available to Central Council of Indian Medicine and Tamilnadu Dr.M.G.R.Medical University. Subsequently, the petitioner also acquired in M.D. in Kaumarabhritya speciality. Since the petitioner had been working in the Government Ayurveda Medical College and Hospital from 2009, she is having the qualification to hold the post of Reader and has now also included in the list of Faculties by the respondents in the said college and the said list having been supplied to CCIM and Tamilnadu Dr.M.G.R.Medical University and continuously, the petitioner has been working in that capacity, she sought for consideration of her candidature for conferring the status of Reader on permanent basis at the said Medical College, instead of the Medical and Rural Health Services, she wants to switch over to Medical Education Services and accordingly, she seems to have given so many representations.

3.In this context, it is the further case of the petitioner that, by 17.08.2014, she has completed five years of teaching experience at the Government Ayurveda Medical College and Hospital. Therefore, she became fully eligible to hold the post of Reader. Therefore, she wants such conferment on her. Since those representations have not so far been considered, the petitioner has approached this Court by filing this writ petition.

4.The learned counsel appearing for the petitioner would submit that, the petitioner is having the full qualification as prescribed under the Adhoc Rules relating to the Temporary Posts in Government Ayurveda Medical College and Hospital in Tamil Nadu Medical Service issued by Government by Tamil Nadu Government Gazette dated 09.05.2018 and therefore, in tune with such Rules, since the petitioner is having full qualification, her grievances can be addressed and she may be considered for conferring her on Reader status. Accordingly, she seeks for writ of mandamus.

5.However, the learned Government Advocate appearing for the respondents would submit that, under the Adhoc Rules referred to above, the petitioner might have been eligible to hold the post of Reader. However, initially, she was appointed only as Assistant Medical Officer and only on deputation basis for the past several years, she has been working in teaching line in Government Ayurveda Medical College and Hospital and for the purpose of appointment as



Reader in the Medical Education Services, there must be a separate procedure to be adopted and therefore, only a fresh appointment can be made and the petitioner cannot be absorbed directly as a Reader. Therefore, the request of the petitioner cannot be accepted by the respondents and the prayer sought for herein cannot be countenanced and hence seeks dismissal of this writ petition.

6.I have considered the submissions made by both sides and perused the materials placed before this Court.

7.Insofar as the qualification of the petitioner is concerned, absolutely, there is no dispute that, the petitioner is a post graduate in Ayurveda Medicine and also acquired M.D. in Kaumarabhritya speciality, admittedly, she had been posted by way of deputation to the Government Ayurveda Medical College at Nagercoil from 18.08.2009 and since then, she has been working there for several years. By 17.08.2014, she has been completed 5 years of teaching experience also and now has been included as one of the Faculty of the said College for the purpose of recognition and affiliation to be given or being extended every year to the said college by CCIM and Tamil Nadu Dr.M.G.R.Medical Univesity.

8.In this context, both the learned counsel relied upon the Adhoc Rules referred to above. In the said Rule, the post of Reader (Ayurveda) has been mentioned under the heading 'qualification and age'. There are 14 departments, in which, in each department, the persons, who wants to be considered for the post of Reader, must have the following qualification:

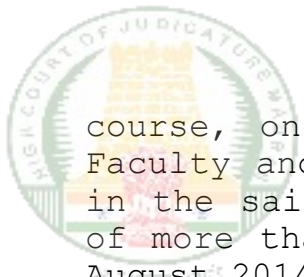
(a)Educational qualification:

(i)A degree in Ayurveda from a University established by law or a statutory Board/Faculty/Examining Body of Indian Medicine or its equivalent as recognised under the Indian Medicine Central Council Act, 1970 (Central Act 49 of 1970);

(ii)A post-graduate qualification in the subject of specially concerned included in the Schedule to the Indian Medicine Central Council Act, 1970 (Central Act 48 of 1970); and

(iii)Must have registered with the Tamil Nadu Board of Indian Medicine, Chennai under Class "A".

9.In respect of the educational qualification, absolutely no quarrel that, the petitioner is having a degree in Ayurveda from a recognised University and she is having post-graduate qualification in the subject or speciality concerned and also she has registered with the Tamil Nadu Board of Indian Medicine, Chennai under class "A". That apart, she is also having higher qualification of M.D. in Kaumarabhritya. Insofar as the teaching experience of 5 years is concerned, it is obvious that from August 2009 onwards, she has been working in the Government Ayurveda Medical College at Nagercoil, of



course, on deputation basis and she has been included one of the Faculty and for the past several years, since she has been working in the said Medical College Hospital, she is having the experience of more than 5 years as the five years experience was completed by August 2014 itself.

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10. Apart from that, having considered 5 years teaching experience already gained by the petitioner from 2009-2014, the 3rd respondent has posted the petitioner as Reader in the department of Kaumarabhritya. with effect from 30.12.2014. The order dated 30.12.2014 passed by the 3rd respondent in this regard read thus:

"Dr.Senthiasari, MD(Ayur), Lec.Gr.II, Govt. Ayurveda Medical College and Hospital, Kottar, Nagercoil is posted as Reader in the department of Kaumarabhritya. with effect from 30.12.2014."

It is stated that the said order of the 3rd respondent has been confirmed by the 2nd respondent vide order dated 13.06.2017, which reads thus:

"Dr.T.M.Senthiasari, Lecturer Grade II, Government Ayurveda Medical College, Kottar, Nagercoil is now temporarily posted as Reader, full additional charge, in the department of in Kaumara Bhrithya, pending framing of adhoc rules, with immediate effect."

11. Since the petitioner is having every qualification to hold the post of Reader and she has been continuously pressed into service in that teaching side of the Government Ayurveda Medical College Hospital from 2009 onwards, since the respondents want qualified candidates, now, retaining the service of the petitioner by way of deputation continuously at the Medical Education side instead of Medical Services and Rural Health Department, this Court feel that the request of the petitioner can be considered.

12. In the light of the above discussion, rule position and the qualification of the petitioner, the request of the petitioner can be considered, of course in accordance with law by the respondents.

13. Considering the above, this Court is inclined to dispose of this writ petition with the following direction:

"The respondents, especially, the respondents 1 and 2 are hereby directed to consider the request by way of representation made by the petitioner dated 20.03.2020 and pass orders thereon, by taking into account the aforesaid discussion, especially in the context of the educational qualification and the teaching experience gained by the petitioner to hold the post of Reader and accordingly, pass necessary orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order."



14. With the above direction, this writ petition is disposed of.
No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSI)

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Sub Assistant Registrar (CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary,
Government of Tamilnadu,
Health and Family Welfare Department,
Fort St. George, Chennai - 600 009.
2. The Director/Commissioner,
Directorate of Indian Medicine and
Homeopathy,
Chennai -600 106.
3. The Principal,
Government Ayurveda Medical College
and Hospital,
Kottar, Nageroil,
Kanyakumari District.
4. The Section Officer (E.R Writ)
Madurai Bench of madras High Court,
Madurai

W.P. (MD)No.10308 of 2020
28.08.2020

CK (CO)
KB (02.12.2020) 5P 5C