



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.10.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.[MD]No.14731 of 2020

A.Chithra

... Petitioner

Vs.

1.The Secretary to Government,
Health and Family Welfare (C2) Department,
Chennai.

2.The Director of Medical Education,
Kilpauk, Chennai 10.

3.The Dean,
Madurai Medical College,
Madurai.

... Respondents

PRAYER : This Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus, directing the third respondent to promote the petitioner to the post of Lab Technician Grade I by invoking the provision under Rule 39(a) and 39(b) of Tamil Nadu State and Subordinate Service Rules as one time measurement within the time stipulated by this Court.

For Petitioner : Mr.D.Selvanaygam

For Respondents : Mr.M.Jeyakumar
Additional Government Pleader

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2.This Writ Petition has been filed to direct the third respondent to promote the petitioner to the post of Lab Technician Grade-I by invoking the provision under Rule 39(a) and 39(b) of Tamil Nadu State and Subordinate Service Rules as one time measurement within the time stipulated by this Court.



3.The petitioner was originally selected and appointed to the post of Lab Technician Grade II on 08.11.1994 through District Employment Exchange Seniority. The petitioner probation was declared on 07.11.1996 and her service was regularized with effect from 08.11.1994. Thereafter, without any promotion for the past 25 years, the petitioner is serving in the said post without any blemish on record till date. Right from her original appointment in the year 1994, she is serving at Madurai Medical College, whereas her junior namely V.Renuka Devi, is working as Lab Technician Grade-I presently at Government Rajaji Hospital, Madurai. However, the petitioner is working till date as Lab Technician Grade-II without any promotion. The petitioner's junior were promoted from the Lab Technician Grade-II to Grade-I by the third respondent proceedings dated 28.08.2020. As of now, there are three posts of Lab Technician Grade-I lying vacant. Therefore, it is the contention of the petitioner that she is the senior and she is entitled for the said promotion.

4.Thus, the petitioner made a representation on 07.09.2020 seeking one time of promotion to the post of Lab Technician Grade-I in view of the Rule 39(a) and 39(b) of Tamilnadu State and Subordinate Service Rules and temporary promotion, which was given to the similarly placed person namely, V.Renuka Devi, subject to outcome of the writ petition, which was filed by the petitioner in W.P(MD) No.7259 of 2020. Therefore, there is no impediment for the respondents to dispose of the representation dated 07.09.2020 and to provide temporary promotion. However, no order has been passed till date. Hence, the petitioner is before this Court.

5.Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents would submit that any order that can be passed only on merits and in accordance with law. He would further submit that since the petition in W.P(MD) No.7259 of 2020 is pending, the present writ petition may be posted along with that writ petition. Thereafter, comprehensive order can be passed.

6.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

7.Considering the submission made by the learned counsel appearing on either side, it appears that the writ petition in W.P (MD)No.7259 of 2020 was filed, challenging G.O(Ms) No.147 dated 18.03.2020 with regard to state wise seniority. Though the petitioner has challenged the state wise seniority list, his contention was that there are three posts vacant at the third



respondent institution and she is entitled for that. It is for the respondents to decide whether the petitioner is entitled for the promotion pending writ petition in W.P(MD)No.7259 of 2020, while disposing of the representation. Therefore, I do not find any impediment for the respondents to dispose of the representation of the petitioner. Therefore, I direct the third respondent to dispose of the representation of the petitioner dated 07.09.2020 within a period of four weeks from the date of receipt of a copy of this order, on merits and in accordance with law.

8.With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2020

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 to Government,
Health and Family Welfare (C2) Department, Chennai.
- 2.The Director of Medical Education,
Kilpauk, Chennai 10.
- 3.The Dean, Madurai Medical College,
Madurai.

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-20680[F] dated 29/10/2020
+1 CC to M/s.GP (SR-20695[F] dated 29/10/2020)

W.P.[MD]No.14731 of 2020
28.10.2020

CK(CO)
TR(11.11.2020) 3P 6C