



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD).No.10124 of 2015

and

M.P. (MD) Nos.2 and 3 of 2015

WEB COPY

A.Uma

... Petitioner

-Vs-

1.The Director,
Public Health and Preventive Medicine,
No.359, DMS Complex,
Annasalai, Chennai.

2.The Deputy Director of Health Service,
Sivakasi, Virudhunagar District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned list for counselling for promotion to the post of Superintendent in R.No.58021/E4/2014/S1, dated 15.06.2015 and quash the same in so far as non-inclusion of the petitioner's name in the impugned list and consequently direct the respondent to promote the petitioner to the post of superintendent as per the promotional panel list for the year 2014-2015 dated 22.08.2014.

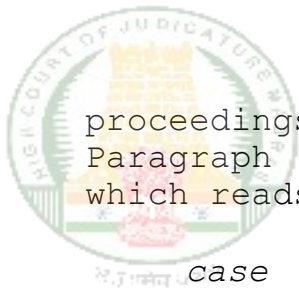
For Petitioner : Mr.A.Sivaji
For Respondents : Mr.P.Mahendran
Additional Government Pleader

ORDER

The regular panel for the year 2014-15 for promotion to the post of Superintendent and the counselling intimated in proceedings, dated 15.06.2015, is under challenge in the present writ petition.

2.The petitioner states that she joined as Junior Assistant in the department. She was promoted to the post of Assistant and her services were regularised. The petitioner states that the next avenue for promotion as Superintendent and she is fully qualified for promotion. Despite the fact that the petitioner is fully qualified, her name was not deferred in the panel of the year 2014-15 for promotion to the post of Superintendent. Thus, the petitioner is constrained to move the present writ petition.

3.The learned Additional Government Pleader appearing on behalf of the respondents contended that the petitioner was not eligible for promotion during the relevant panel of the year 2014-15, in view of the fact that the departmental disciplinary



proceedings were pending against the petitioner. In this regard, Paragraph No.5 of the counter affidavit filed by the respondents which reads as under:-

"....5.It is respectfully submitted that in this case as departmental disciplinary action under 17(b) of Tamil Nadu Civil Services (Discipline and Appeal) is pending against the petitioner herein on the date of consideration of promotion of the petitioner i.e. on 15.06.2015, the petitioner has been informed by the first respondent in his Procs.R.No.58021/E4/2014/S1, dated 15.06.2015, as per Rule 4 (a) Schedule-VII Part-A II (1) of the Tamil Nadu State and Subordinate Services Rules that her name included in the regular panel for the year 2014-2015 at the order of preference Sl.No.89/Seniority No.170 for promotion to the post of Superintendent and published in proceedings R.No.58021/E4/2014/S1, dated 22.08.2014 is hereby deleted, as on the date of consideration of her promotion, disciplinary action under Rule 17(b) of Tamil Nadu Civil Service (Discipline and Appeal) is pending against her as per Procs.R.No.1721/S1/2015, dated 01.04.2015 of the second respondent. As such, the averment of the petitioner that her name should be included in the year of panel 2014-2015 for promotion to the post of Superintendent even though disciplinary action under Rule 17(b) of Tamil Nadu Civil Service (Discipline and Appeal) is pending against her at the time of the date of consideration of her promotion is not fair and correct and it is against the Government rules..."

4.As per the promotion policy of the Government, the pendency of the charge under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, is a bar for promotion. In view of the fact that the petitioner was facing the departmental disciplinary proceedings during the relevant point of time, her name was rightly deferred in accordance with the promotion Rules and therefore, the relief as such sought for cannot be granted.

5.Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

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/ /2020

Sub Assistant Registrar(CS)



1.The Director,
Public Health and Preventive Medicine,
No.359, DMS Complex,
Annasalai, Chennai.

2.The Deputy Director of Health Service,
Sivakasi, Virudhunagar District.

+1 CC to M/s.A.SIVAJI, Advocate (SR-23422[F] dated 01/12/2020)

+1 CC to M/s.SPL GP (SR-23547[F] dated 01/12/2020)

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KB(04.12.2020) 3P 5C