

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.13319 of 2007

Dr.R.Lakshmi

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Petitioner

Vs.

1.State of Tamil Nadu,
Rep.by Secretary to Government,
Health & Family Welfare Department,
Fort St. George, Chennai - 600 009.

2.The Director of Medical Education,
Chepauk, Chennai - 600 005.

3.Tmt.Prasanna Baby

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Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records of the order of the first respondent made in G.O.(D)No.303, Health and Family Welfare Department, dated 01.03.2007 and quash the said order of the first respondent, dated 01.03.2007.

For Petitioner : Mr.E.Manoharan

For Respondents: Mr.Akhil Akbar Ali

Government Advocate for R1 and R2

M/s.C.S.Associates for R-3

सत्यमेव जयते
O R D E R

This Writ Petition has been filed to quash the order of the first respondent made in G.O.(D)No.303, Health and Family Welfare Department, dated 01.03.2007.

2. It is the case of the petitioner that she acquired the post graduate decree in Nursing in the year 1994 and had been deputed to work in the College of Nursing since 1994, and the third respondent had acquired M.S.C. Nursing in the year 1997 and had deputed to the College of Nursing only in August 1998. According to the petitioner, she is the only person who possesses the qualification prescribed by the Indian Nursing Council, but the petitioner's claim has been overlooked and

persons who did not possess the qualification prescribed by the Indian Nursing Council were promoted as Readers. It is the further case of the petitioner that the crucial date for inclusion in the panel for promotion to the post of Reader, is 15th March of every year and the third respondent cannot be considered to be eligible for inclusion in the panel for the year 2001-2002, since she had not completed three years teaching experience on or before 15.03.2001, as she had deputed to the College of Nursing only in August 1998, while the petitioner had deputed to work in the College of Nursing during 1994. However, the first respondent, by the impugned G.O.(D) No.303, dated 01.03.2007, included the name of the third respondent in the panel prepared for the year 2001-2002 vide G.O.(D), dated 03.09.2004 and more particularly to be directed her name to be placed above the petitioner, is wholly illegal.

3. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the first and second respondents and the learned counsel for the third respondent, and perused the materials available on record.

4. It is seen from the records that the third respondent has made a representation for considering her name for promotion to the post of Lecturer. Since the same was not considered, she approached the Tamil Nadu Administrative Tribunal for inclusion of her name in the panel for promotion to the post of Lecturer. The Tribunal, by an order dated 05.01.2004, directed the authorities to consider her name for appointment to the post of Lecturer as per the existing Rules. Since the said order was not considered, she filed a Writ Petition to implement the orders of the Tribunal, which had been disposed of on 10.09.2004. Since the order passed in the Writ Petition was not considered, the third respondent again filed a Contempt Petition and after notice was ordered in the Contempt Application, the Government had issued orders, dated 01.03.2007, directing the inclusion of the name of the third respondent in the regular panel in G.O.926, Health dated 03.09.2004, for the year 2001 and 2002 and thereby placed below Tmt.Rajeswari and above the petitioner.

5. According to the learned counsel, the petitioner has no grievance against the promotion of the third respondent, as Lecturer and however, the petitioner is aggrieved by the direction issued to include the name of the third respondent in the panel for the year 2001-2002 and more particularly to be placed above the petitioner.

6. It could be seen from the counter affidavit filed by the respondents that the petitioner was promoted as Reader in Nursing retrospectively with effect from date from which the third respondent was promoted to the post of Reader in Nursing

Vide G.O.(D)No.660, Health and Family Welfare Department, dated 07.06.2011. Subsequently, the petitioner was promoted as Principal, on 14.12.2011, and thereafter, promoted as Additional Director of Medical Education on 06.01.2015, which is the highest cadre in the Nursing Wing. It is also submitted that the third respondent retired from the Government service as Principal on 31.10.2011, while the petitioner was retired as Additional Director of Medical (Nursing) from the Government Service on 30.06.2018.

7. The above fact was also not disputed by the learned counsel for the petitioner. Though the petitioner has stated in the affidavit that the persons who did not possess the qualification prescribed by the Indian Nursing Council were promoted as Readers, a Writ Petition has been filed and it is now pending Writ Appeal, the petitioner has not informed about the fate of the said cases. The only grievance of the petitioner is that the third respondent was placed below the petitioner.

8. As it could be seen from the counter affidavit filed by the respondents, that the petitioner was promoted to the post of Reader with effect from the date on which the third respondent was promoted, and subsequently retired the higher post of Additional Director of Medical Education (Nursing) on 30.06.2018, while the third respondent was retired as Principal on 31.10.2011, this Court is of the view that the petitioner is no way prejudiced by the order passed by the first respondent.

9. In the case on hand, the petitioner has not established, as to how the order passed by the first respondent, had been affected her promotional avenues. As already observed above, while the petitioner retired on 30.06.2018, as Additional Director of Medical Education (Nursing), which is the highest cadre in the Nursing Wing, the third respondent had retired as Principal on 30.10.2011. In view of the above, it is clear that petitioner is no way prejudiced by the order passed by the first respondent and the Writ Petition lacks merit.

10. In fine, the Writ Petition fails, and accordingly, it is dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

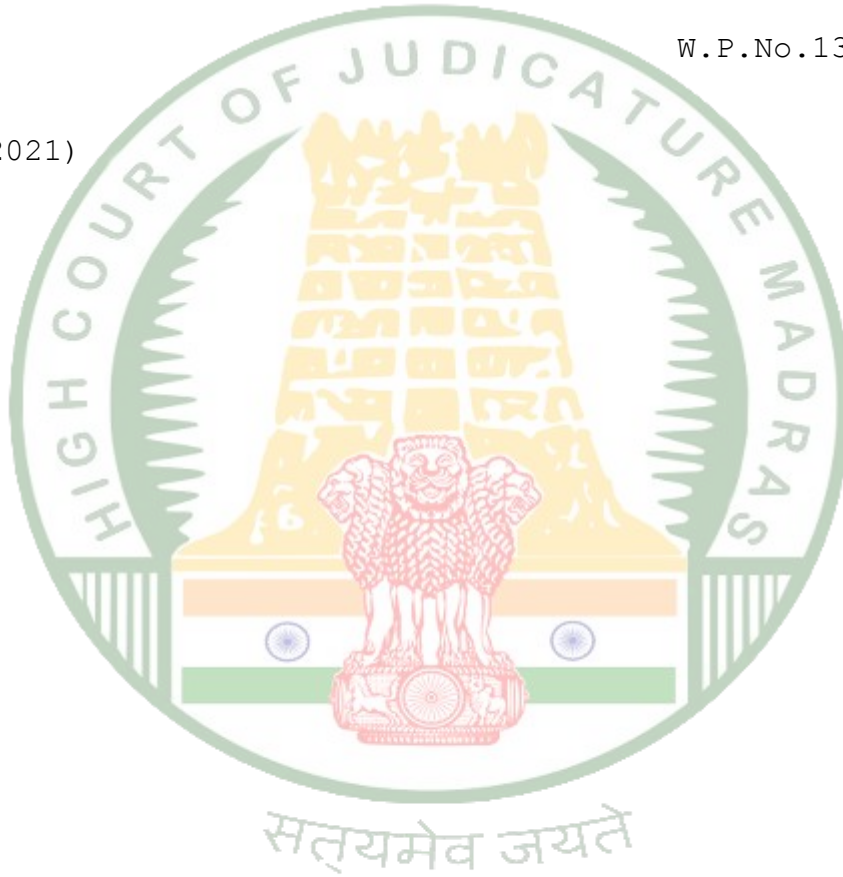
1.The Secretary to Government,
Health & Family Welfare Department,
Fort St. George, Chennai - 600 009.

2.The Director of Medical Education,
Chepauk, Chennai - 600 005.

+2cc to Mr.A.Jenasenan, Advocate SR.11093
+1cc to the Government Pleader SR.33846

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AK II(CO)
CB(23/03/2021)



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