

IN The HIGH COURT OF JUDICATURE AT MADRAS
DATED: 10.03.2021

CORAM:

The HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.No.6019 of 2021 and
WMP No.6672 of 2021

R.Easwari Siva

... Petitioner

-vs-

1. The Secretary to Government,
Department of Health and Family Welfare,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Medical Education,
Kilpauk, Chennai - 600 010.
3. The Dean,
Government Erode Medical College and Hospital,
Perundurai, Erode - 638 053. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to include the petitioner in the panel for lecturer in Nursing of the year 2020-2021 and consequently promote the petitioner to the post of Lecturer in Nursing by considering the petitioner's representation dated 30.01.2021.

For Petitioner : Mr.G.Kannuchamy

For Respondents: Mr.S.Karthikeibalan,
Government Advocate

सत्यमेव जयते
O R D E R

This Writ petition is filed, seeking a direction to the 2nd respondent to include the petitioner in the panel for lecturer in Nursing of the year 2020-2021 and consequently promote the petitioner to the post of Lecturer in Nursing by considering the petitioner's representation dated 30.01.2021.

2.Mr.S.Karthikeibalan, learned Government Advocate takes notice for the respondents. By consent, final orders are passed in the Writ Petition at the admission stage.

3. The learned counsel for the petitioner would submit that the petitioner is working as a Principal of the 3rd respondent College since 2007. Therefore, according to the petitioner, she is eligible for next avenue of promotion to the post of Lecturer

in Nursing. But, the 2nd respondent vide his proceedings in Ref.No.68730/N2/2020 dated 27.01.2021 had released a panel of Nursing Tutor Grade - II in which the name of the petitioner has not been included. Hence, she made a representation to the 2nd respondent to include her name in the panel for promotion to the post of Nursing Tutor Grade-II. Since there is no response on the side of the respondents, the petitioner has preferred the present Writ petition.

4. The learned Government Advocate appearing for the respondents would submit that originally the petitioner was serving in the private institute and it is taken over by the Government only in the year 2020 pursuant to G.O.(MS) No.70, Health and Family Welfare (E2) Department, dated 26.02.2020. Hence, the petitioner cannot seek any priority in the seniority list.

5. In view of the above, as it is for the respondents to decide how to draw the seniority list, this Court is not inclined to interfere with the same for the grant of aforesaid relief sought for by the petitioner. However, as the petitioner has given a representation to the 2nd respondent, the same shall be directed to be considered and disposed of by the respondents on merits.

6. Taking into account the fact that the petitioner's representation is already pending with the 2nd respondent, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the 2nd respondent herein to consider the representation preferred by the petitioner dated 30.01.2021, if not already disposed of, and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 90 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the 3rd respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if

any, etc., along with a copy of the representation dated 30.01.2021 and this order, to the 2nd respondent forthwith;

v) The 2nd respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

vum
To

1. The Secretary to Government,
Department of Health and Family Welfare,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Medical Education,
Kilpauk, Chennai - 600 010.
- 3.The Dean,
Government Erode Medical College and Hospital,
Perundurai, Erode - 638 053.

+1cc to Mr.Jayaprakash, Advocate SR.No. 15297

+1 cc to Government Pleader Sr.No. 15418

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A.SK(29.03.2021)