



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2021

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P(MD)No.17650 of 2021

& WMP (MD) No.14557 of 2021

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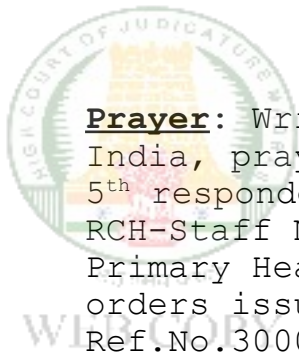
B.Deepa

... Petitioner

Vs.

- 1.The Director of Medical and Rural Health Services
Office of the Director of Medical and Rural Health Services,
No.359, Anna Salai, DMS Complex,
Teynampet,
Chennai-600 006
- 2.The Director of Public Health & Preventive Medicine,
Office of the Director of Public Health & Preventive Medicine,
No.359, Annasalai, DMS Complex,
Chennai -600 006
- 3.The Chairman,
Medical Services Recruitment Board,
Chennai-600 006
- 4.The Deputy Director of Health Services,
Office of the Deputy Director of Health Services,
Collectorate,
Sivagangai-630 662.
- 5.The Deputy Director of Health Services,
Office of the Deputy Director of Health Services,
Collectorate, Virudhunagar,
Virudhunagar District.
- 6.The Block Medical Officer,
Government Primary Health Centre,
Maravamangalam,
Sivagangai District.
- 7.The Medical Officer,
Government Primary Health Centre,
Nattarasankottai,
Sivagangai District.
- 8.The Medical Officer,
Government Urban Primary Health Centre,
Opp to Arulmighu Mariamman Thirukkivil,
Virudhunagar,
Virudhunagar District.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 5th respondent herein to permit the petitioner to join her duties as RCH-Staff Nurse in the office of the 8th respondent Government Urban Primary Health Centre, Virudhunagar by implementing the transfer orders issued by the first respondent vide his proceedings in Ref.No.30004/N1/3/2021 dated 03.08.2021 within the time frame to be stipulated by this Court.

For Petitioner : Mr.P.Mahendran
For Respondents : Mr.A.K.Manikkam,
Standing Counsel for State.

ORDER

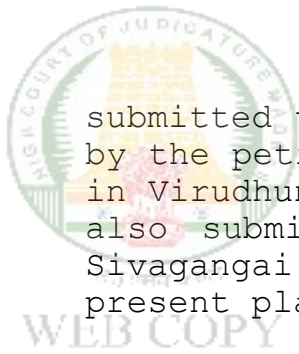
This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the 5th respondent herein to permit the petitioner to join her duties as RCH-Staff Nurse in the office of the 8th respondent Government Urban Primary Health Centre, Virudhunagar by implementing the transfer orders issued by the first respondent vide his proceedings in Ref.No.30004/N1/3/2021 dated 03.08.2021 within the time frame to be stipulated by this Court.

2.Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

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

4.According to the petitioner, she was appointed as Nurse on a consolidated pay and posted at Government Primary Health Centre, Nattarakottai at Sivagangai District and she was also accorded seniority at Serial No.6125. While so, the 1st respondent on conducted General transfer counselling for the year 2021 in respect of RCH Nurses from 27.06.2021 to 30.07.2021 wherein, the petitioner also participated opted her place of choice of transfer. Pursuant to the same, by order dated 03.08.2021, the 1st respondent transferred the petitioner to the Urban Government Primary Health Centre, Virudhunagar in an existing vacancy. Accordingly, the petitioner was relieved and when she approached the 5th respondent's office at Virudhunagar on 22.09.2021 and requested the 5th respondent to permit to join duty, but despite her request, she was not permitted to join duty and no reasons were assigned. In such circumstances, the petitioner sent a detailed representation to the respondents on 23.09.2021 and since no action was forthcoming, the petitioner has come forward with the present writ petition.

5.The learned Standing counsel appearing for the respondents on instructions would submit that due to inadvertence, the first respondent passed transfer orders to the petitioner as well as one another person, namely, Kokila for a very same station. He further



submitted that the first respondent will reconsider the request made by the petitioner and accommodate her in any of the vacancies arises in Virudhunagar District and appropriate orders would be passed. He also submitted that now the petitioner has been accommodated in Sivagangai District and the petitioner can report duty at the present place.

6.The learned counsel appearing for the petitioner has also agreed and submitted that the petitioner is ready and willing to join the present transferred place. However, the learned counsel requested that the period of absence which had taken place from the date of relieving order pursuant to the transfer order passed by the 1st respondent and till the date of rejoining the present station by the petitioner, may be treated as duty period and the petitioner may be paid pay and allowance, since the said lapse was not on the part of the petitioner, but due to the inadvertance of the 1st respondent issuing transfer orders for the very same station to two persons, including the petitioner. The request now made by the learned counsel for the petitioner is acceptable and bona fide and the respondents also have to necessarily consider the same.

7.In the light of the above, the Writ Petition stands disposed of, directing the respondents to permit the petitioner to join duty at the present station at Sivagangai District, as and when any vacancy arises at Virudhunagar District, the respondents are directed to consider the request of the petitioner and transfer her at the place of her choice. The respondents are also directed to pass appropriate orders treating the period of absence which had taken place due to inadvertance of the 1st respondent in the matter transferring two persons at a time, for which, the petitioner cannot be faulted with. No costs. Consequently, connected WMP is closed.

Sd/-

Assistant Registrar (CRL)

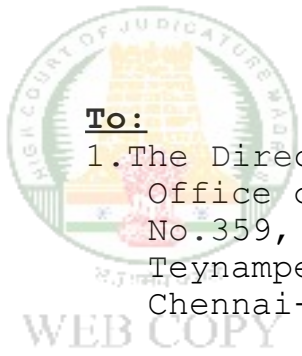
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Sub Assistant Registrar(CS)

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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:

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Opp to Arulmighu Mariamman Thirukkivil,
Virudhunagar,
Virudhunagar District.

+1 CC to M/s.P.MAHENDRAN, Advocate (SR-31415[F] dated 06/10/2021)

+1 CC to M/s.SPL.GP (SR-31524[F] dated 07/10/2021)

W.P (MD) No.17650 of 2021
05.10.2021

PS (CO) /RS (08.10.2021) 4P 11C