



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P (MD)No.4808 of 2017

A.Balasubramanian

... Petitioner

Vs.

1.The Director,
Directorate of Medical and Rural
Health Service,
DMS Compound,
Thenampet,
Chennai - 600 006.

2.The Dean,
Government Rajaji Hospital,
Madurai.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, to direct the respondents to promote the petitioner to the post of Junior Assistant in terms of panel prepared by the first respondent in file Reference No.24000/E2/2/2014-1, dated 23.11.2016.

For Petitioner : Mr.R.Murali

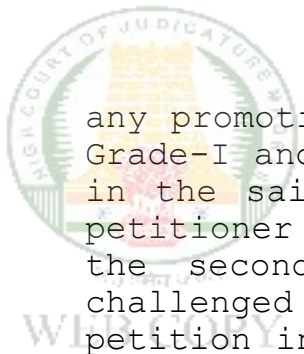
For Respondents : Mr.A.Karthik
Government Advocate

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ORDER

This Writ Petition is filed by the petitioner seeking for issuance of a writ of Mandamus, to direct the respondents to promote the petitioner to the post of Junior Assistant in terms of panel prepared by the first respondent in file Reference No.24000/E2/2/2014-1, dated 23.11.2016.

2. The case of the petitioner is that he joined in the service of respondent as a Nursing Assistant in the year 1990. Thereafter, he was given training by the respondent and he had successfully completed Nursing Assistant Training from respondent Hospital and to that effect, he was given certificate dated 09.11.1994. Thereafter, he was posted as Male Nursing Assistant Grade II under the respondent from 1994 and the petitioner continued to discharge his duty as Male Nursing Assistant Grade II and for the past 25 years the petitioner was working in the same post without



any promotion and his next avenue of promotion is Nursing Assistant Grade-I and in fact there are more than 10 vacancies were available in the said post and in order to avail the said opportunity, the petitioner made a representation and the same was also rejected by the second respondent dated 17.07.2015 and the same was also challenged by the petitioner before this Court by filing a writ petition in W.P.(MD)No.14833 of 2015 seeking promotion from Nursing Assistant Grade-II to Nursing Assistant Grade-I and the same is also pending before this Court.

3. The other avenue was also available to the petitioner to seek promotion from Nursing Assistant Grade II to Junior Assistant. In order to avail the said benefit, the petitioner has made a representation on 30.11.2016 to the second respondent and the same was also forwarded to the first respondent on 05.12.2016. In spite of the same, no order was passed so far and hence, the present writ petitioner has been filed.

4. Learned Counsel appearing for the petitioner would submit that there are two avenues of promotions available from the feeder category post of Male Nursing Assistant Grade-II, one is Male Nursing Assistant Grade I and another one is Junior Assistant. On earlier occasion, seeking promotion to Male Nursing Assistant Grade-I was rejected by the authorities and hence, for the another avenue of promotion ie., to Junior Assistant, the petitioner is entitled to get the promotion. Hence, learned Counsel would pray for appropriate orders.

5. Learned Government Advocate appearing for the respondents would submit that for the promotion of Junior Assistant, the petitioner has to complete the clerical training for a period of six months, however, the petitioner has not undergone the said clerical training and even though the petitioner has reached his turn for promotion, the name of the petitioner has not been considered for inclusion as he has not completed the clerical training for a period of six months, which is one of the pre-requisite qualifications and hence, the petitioner is not entitled to get the promotion as Junior Assistant and hence, he would pray for dismissal of the writ petition.

6. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents and perused the materials placed on record.

7. Considering the facts and circumstances of the case, though the petitioner claims two avenues of promotions, one is Male Nursing Assistant Grade-I and another one is Junior Assistant, the first avenue of promotion as Male Nursing Assistant Grade-I was rejected by the authorities. Without resolving that issue, filing another writ petition for issuance of another avenue of promotion as



petition is misconceived and the same is liable to be dismissed.

8. In view of the above, the Writ Petition stands dismissed. No costs. However liberty is granted to the petitioner to work out his remedy in earlier writ petition pending before this Court.

WEB COPY

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SSL

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 Director,
Directorate of Medical and Rural
Health Service,
DMS Compound,
Thenampet,
Chennai - 600 006.

2.The Dean,
Government Rajaji Hospital,
Madurai.

+1 CC to M/s.SPL GP (SR-10608[F] dated 11/03/2021)

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KG(CO)

TR(19.03.2021) 3P 4C