



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2022

CORAM :

WEB COPY

THE HON`BLE MR.JUSTICE B.PUGALENDHI

W.P (MD) No.478 of 2022

M.Radha

Petitioner

Vs.

1.The Director of Public Health and Preventive
Medicine,
Anna Salai, DMS Complex,
Teynampet,
Chennai - 600 006.

2.The Deputy Director of Health Services,
Palani Road,
Dindigul - 624 002.

3.N.Rajeswari,
Village Health Nurse (VHN)
(Serial No.245, Seniorirty 5655),
Sirukarumbur,
Kaveripakkam,
Ranipet - 632 531.

4.M.Krishnaleela,
Village Health Nurse (VHN),
(Serial No.246, Seniority No.5656),
Seeniyur, Nallattipalayam,
Coimbatore - 642 109.

Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the first respondent by considering the petitioner's representation dated 10.12.2021 to consider the petitioner's case as her original seniority serial No.260 with Seniority No.5654 in letter Na.Ka.En.66424/PANO5/IRU1/2021, dated 23.08.2021 and to direct to include the petitioner's name against seniority serial nos.245 and 246 before the seniority number 5655 in Letter R.No.66424/MP5/S1/2021, dated 07.12.2021, within a stipulated time fixed by this Court.

For Petitioner
For R1 & R2

:Mr.C.Masilamani
:Mr.P.T.Thiraviam
Government Advocate



O R D E R

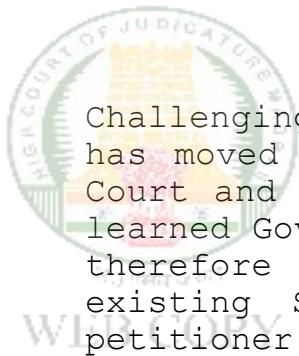
This writ petition is filed for a Mandamus, directing the official respondents to include the petitioner's name in seniority list, by considering her representation, dated 10.12.2021

2.The case of the petitioner is that when she was working as Village Health Nurse, she was imposed with the punishment of stoppage of increment with cumulative effect for two years, for the alleged charges that she purchased some movable and immovable properties, without prior intimation. Challenging the same, she filed an appeal before the first respondent and the same was rejected on 10.10.2018. Hence, the petitioner has made another representation to the first respondent and the same was not considered. Hence, the petitioner filed W.P(MD) No.5685 of 2019 before this Court, which is still pending. At this juncture, the first respondent issued a circular, to provide details for promotion of Sector Health Nurse for the year 2021-2022, pursuant to which, the names of the Village Health Nurse, who have been included in the panel for promotion to the post of Sector Health Nurse had been communicated vide letter R.No.66424/MP5/S1/2021, dated 07.12.2021, wherein, the name of the petitioner was not found. Therefore, the petitioner made a representation to include the petitioner's name against seniority serial nos.245 and 246 before the seniority number 5655 in Letter R.No.66424/MP5/S1/2021, dated 07.12.2021 and the same was not considered so far. Hence, the petitioner is before this Court, with the present writ petition.

3.Mr.P.T.Thiraviam, learned Government Advocate, who takes notice for the respondents submits that the representation itself was made only 10.12.2021. More over, the petitioner was imposed with the punishment of stoppage of increment with cumulative effect for two years, by order dated 26.04.2017. As against the order of the Disciplinary authority, the petitioner preferred an appeal before the Appellate Authority, which was rejected on 10.10.2018. As against the orders of the Disciplinary Authority as well as the Appellate Authority, the petitioner has filed W.P.(MD) No.5685 of 2019, before this Court and the same is still pending . Though interim stay was granted in the said writ petition, currency is not yet over. Therefore, the petitioner is not entitled for promotion.

4.This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

5. Admittedly, the petitioner was imposed with a punishment of stoppage of increment with cumulative effect for two years by order dated 26.04.2017. Appeal filed by the petitioner against the punishment imposed on her was rejected during 2018. The petitioner submitted a representation once again to the respondents and the same was rejected on the ground of dismissal of the appeal already.



Challenging the order of the Disciplinary Authority, the petitioner has moved a Writ petition in W.P(MD) No.5685 of 2019, before this Court and the same is still pending. As rightly pointed out by the learned Government Advocate, the currency period is not yet over and therefore the petitioner is not entitled for promotion as per the existing Service Rules. As there is no right accrued on the petitioner to seek for a Mandamus, this Court is not inclined to issue any Mandamus.

6.In view of the above, this writ petition is dismissed. It is open to the petitioner to renew her request, after disposal of W.P(MD) No. 5685 of 2019, which is pending before this Court or after the completion of currency. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vrn

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 of Public Health and Preventive
Medicine,
Anna Salai, DMS Complex,
Teynampet,
Chennai - 600 006.

2.The Deputy Director of Health Services,
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Dindigul - 624 002.

+1 CC to M/s.SPL.GP (SR-1474[F] dated 12/01/2022)

W.P(MD) No.478 of 2022
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