



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.2629 of 2022

M.Hemalatha

... Petitioner

-vs-

1.Director of Public Health and Preventive Medicine,
Chennai-06.

2.Deputy Director of Health Services,
Madurai.

3.Block Medical Officer,
Government Primary Health Centre,
Chellampatti, Madurai 625 514.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the 1st respondent to pass appropriate order on the petitioner representation dated 13.12.2021 which has been forwarded by the 3rd respondent, through letter dated 13.12.2021 Na.Ka.No.715-21-2021 within a specified time limit that may be fixed by this Court.

For Petitioner : Mr.N.Vallinayagam
for Mr.K.Sudalaiyandi

For Respondents: Mr.A.K.Manikkam,
Additional Government Pleader

O R D E R

The relief sought for in the present writ petition is to direct the 1st respondent to pass appropriate orders on the representation dated 13.12.2021.

2.The petitioner is now working as Village Nurse at the Government Primary Health Care Centre, Chellampatti, Usilampatti Taluk, Madurai District. The petitioner states that she is fully qualified for promotion to the post of Sector Health Nurse. She was promoted in the year 2017. However, she had relinquished her right of promotion. Now after three years, the juniors to the petitioner were promoted denying promotion to the petitioner. Thus, the present writ petition is filed to consider her representation.



3.Learned counsel appearing for the petitioner made a submission that the petitioner had relinquished her right of promotion. After completion of the period of three years of relinquishment, her case ought to have been considered by the authorities. Now, the juniors to the petitioner were promoted and therefore, the representation is to be considered.

4.Learned Additional Government Pleader appearing for the respondents objected to the said contention by stating that the petitioner was promoted in proceedings dated 20.09.2017. However, there is no proof to establish that the petitioner relinquished her promotion granted in the year 2017. In the absence of any acceptance of relinquishment, it is to be construed that the petitioner has not joined in the promoted place. Therefore, she is not eligible for any further promotion.

5.This Court is of the considered opinion that the proceedings dated 20.09.2017 is the order of promotion granted to the petitioner to the post of Sector Health Nurse. The Director of Public Health and Preventive Medicine issued a circular on 02.12.2021, asking the concerned officials to provide particulars in respect of the Village Nurses who have relinquished their right of promotion for three years. However, there is no order of relinquishment, as far as the petitioner is concerned. Thus, the case of the petitioner was not considered. In the absence of any such relinquishment order, it is to be construed that the petitioner had opted permanent relinquishment, as she had not joined the promotional post as per the promotion order passed. Once an employee, on receipt of the promotion order, failed to join duty in the promotional post, then it is a deemed relinquishment, as the employee was not willing to join the promotional post. Even, thereafter, the petitioner has not made any appeal or otherwise in respect of such relinquishment made in the year 2017. Contrarily, only after promotion of her juniors, she had submitted a representation in the year 2021. Such a representation submitted belatedly need not be considered. If at all the petitioner is eligible as per rules, she is at liberty to approach the authority by citing the rules or otherwise and set out her claim in the manner known to law. With these observations, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)



1.The Director of Public Health and
Preventive Medicine, Chennai-06.

2.The Deputy Director of Health Services,
Madurai.

3.The Block Medical Officer,
Government Primary Health Centre,
Chellampatti, Madurai.

+1 CC to M/s.N.VALLINAYAGAM, Advocate (SR-5255[F] dated
10/02/2022)

+1 CC to M/s.SPL GP (SR-5337[F] dated 10/02/2022)

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