



WEB COPY



W.P.No.19621 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.19621 of 2022

K.Peramalatha

... Petitioner

Vs.

1.Secretary to the Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George, Chennai – 600 009.

2.The Deputy Director of Health Service,
Kallakurichi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the record of the letter No. 15529 / R1 / 2019-8 dated 27.2.2020 on the file of the 1st Respondent and quash the same and consequently direct the respondent to recruit the petitioner to the post of District Extension Educator.

For Petitioner : Mrs.S.S.Jhothivani

For Respondents : Mr.P.Baladhandayutham
Special Government Pleader



W.P.No.19621 of 2022

WEB COPY

ORDER

This writ petition has been filed challenging the order of the 1st respondent, dated 27.02.2020, rejecting the claim of the petitioner for promotion to the post of District Extension Educator.

2.It is the case of the petitioner that she is working as Village Health Nurse. It is the contention of the petitioner that, since she is qualified with M.A. Sociology, she should be promoted to the post of District Extension Educator. According to her, there are three methods of appointment to the said post, viz., by way of promotion, by way of transfer from the category of Health Inspector Grade-I or by way of direct recruitment. Since the petitioner has completed Post Graduate Diploma in Health Promotion and Education, she is fully qualified to the post of District Extension Educator. On earlier occasion, the petitioner filed a writ petition in W.P.No.1736 of 2017 seeking similar relief. By order dated 08.04.2019, this Court has allowed the writ petition. However, the Division Bench of this Court, in Writ Appeal No.2944 of 2019, by judgment dated 20.12.2019, has set aside the order of the learned Single Judge in W.P.No.1736 of 2017, without prejudice to rights of the petitioner to seek her remedy against any other post and directed the



W.P.No.19621 of 2022

respondents to take steps to provide opportunity to the petitioner and pass appropriate orders to that effect. Based on the directions of the Division Bench of this Court, now, the impugned order has been passed, rejecting the request of the petitioner for promotion. Challenging the same, the present writ petition has been filed.

3.Challenge has been made mainly on the ground that the impugned order has been passed without considering the petitioner for any other post. However, apart from that, in the entire affidavit or in the writ petition, no ground has been made out by the petitioner to assail the impugned order.

4.In the counter affidavit filed by the respondents, it is stated that the petitioner has completed only SSLC and she has directly completed her Post Graduation, i.e., M.A.(Sociology) through Open University without completing +2 and Under Graduation and therefore, she is not eligible for promotion to the post of District Extension Educator. Further, as per Tamil Nadu Medical Subordinate Service Rules, the feeder category for the promotional post of District Extension Educator is Block Extension Educator in Family Welfare Department and



W.P.No.19621 of 2022

Health Inspector (Grade-I) in Public Health Department in the ratio of 9:1.

Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (Tamil Nadu Act 14 of 2016) deals with special qualification. Explanation-1 to the said Section 25 of the said Act provides as follows :

“Explanation -1 :

In cases where the special rules prescribe a diploma or a degree or a post-graduate degree as a qualification for appointment, then,—

(a) a diploma obtained, after completion of S.S.L.C. or Higher Secondary Course [10+3 (3 Years Diploma)] or [10+2+2 (Lateral Entry)]; or

(b) a degree obtained, after completion of S.S.L.C. and Higher Secondary Course (10+2+3 or more); or

(c) a post-graduate degree obtained, after completion of S.S.L.C., Higher Secondary Course and a degree (10+2+3+2 or 3) from any University or Institution, recognized by the University Grants Commission shall be recognized as the qualification.”

The petitioner is not having educational qualification “a degree” since she has not completed +2, under graduation and she has only completed SSLC and M.A. Sociology through Open University.

5.Besides, it is the contention of the respondents that the



W.P.No.19621 of 2022

petitioner is not eligible to the promotional post of District Extension

Educator, since she is not holding the post in the feeder category. As per

Rule 3(a)(ii) of Adhoc Rules for the post of District Extension Educator,

the feeder category is Health Inspector (Grade-I) for which, a Village

Health Nurse cannot be considered. Further, as per Rule 3(a)(iii) of

Adhoc Rules for the post of District Extension Educator, the method of

direct recruitment will be considered only when there are no candidates

available in the two methods of recruitment, i.e., by promotion or by

recruitment by transfer and the appointment through the method of direct

recruitment should be made through the recruiting agency, i.e., Tamil

Nadu Public Service Commission by following regular recruiting process.

Hence, the petitioner is not entitled to the promotion as sought by her.

6.Heard the learned counsel for the petitioner and

Mr.P.Baladhandayutham, learned Special Government Pleader, appearing

for the respondents and perused the entire materials available on record.

7.It is relevant to note that the Special Rules reads as follows :



W.P.No.19621 of 2022

“(1) .. 3.Appointment :

Appointment to the post shall be made as follows :

(a) (i) by promotion from the category of Block Extension Educator; or

(ii) by recruitment by transfer from the category of Health Inspector Grade-I; or

(iii) by direct recruitment, if no qualified candidate is available in any of the above methods.

(b) The ratio for appointment among the methods specified in items (i) and (ii) shall be 9:1;

(2) in rule 5, in sub-rule (b), for the Table, the following Table shall be substituted, namely

“THE TABLE”

Method of appointment (1)	Qualification (2)
<i>(i) Promotion recruitment transfer</i>	<i>or (i) A degree; by (ii) Three Months Certificate Course in Information Education and Communication with experience for a period of not less than five years in the respective post; or Post Graduate Diploma in Health Promotion and Education with experience for a period of not less than two years in the respective post;</i>
<i>(ii) Direct recruitment</i>	<i>Post graduate degree in Sociology;</i>

8.A perusal of the above Rules makes it clear that appointment

to the post of District Extension Educator can be made by way of



W.P.No.19621 of 2022

promotion from the category of Block Extension Educator or through recruitment by transfer from the category of Health Inspector (Grade-I).

Admittedly, the petitioner is not a Block Extension Educator nor Health Inspector (Grade-I). The petitioner is only a Village Health Nurse. Therefore, she cannot claim promotion as per Rule 3(a) of Adhoc Rules. Only when no candidates are available as set out under Rule 3(a)(i) and 3(a)(ii), direct recruitment is permissible as per Rule 3(a)(iii). In such view of the matter, when the petitioner is not even holding the feeder category to the post of District Extension Educator, as a matter of right, she cannot seek promotion to the said post, merely on the ground that she has completed M.A. Sociology through Open University. It is pertinent to note that the petitioner is not qualified with +2 and Under Graduation, but only Post Graduation in M.A. Sociology, that too, through Open University. Therefore, Section 25 of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, disqualifies her from claiming promotion. In such view of the matter, this Court does not find any merit in this writ petition to interfere with the impugned order.

N. SATHISH KUMAR, J.
mkn



W.P.No.19621 of 2022

9. Accordingly, this writ petition is dismissed. No costs.

WEB COPY

07.09.2023

mkn

Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

To

1. The Secretary to the Government of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George, Chennai – 600 009.

2. The Deputy Director of Health Service,
Kallakurichi District.

W.P.No.19621 of 2022