



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.15068 of 2021
& W.M.P.Nos.15965, 15967 of 2021
& W.M.P.No.19189 of 2023

Dr.V.R.Selva Ambigai

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Petitioner

versus

- 1.The Chairman / Chief Secretary,
Departmental Promotion Committee,
Mother Theresa Post Graduate &
Research Institute of Health Sciences,
Indira Nagar, Gorimedu,
Puducherry - 06.
- 2.The Vice-Chairman / Secretary to Government,
Health and Family Welfare Services,
Government of Puducherry,
Puducherry - 06.
- 3.The Dean,
Mother Theresa Post Graduate
& Research Institute of Health Sciences,
Indira Nagar, Gorimedu,
Puducherry - 06.
- 4.The Pondicherry University,
R.V. Nagar, Kalapet,
Puducherry - 14.



5.The Secretary,
Indian Nursing Council,
8th Floor, NBCC Centre,
Plot No 2, Community Centre,
Okhla Phase-I,
New Delhi - 110 020.

6.The Registrar,
Tamil Nadu Nurses and Midwives Council,
Santhome High Road,
Chennai - 4.

7.V.Revathy

[R-7 impleaded vide order dated 25.01.2023 made in W.M.P.No.18452 of 2021 in W.P.No.15068 of 2021]

8.V.Sasireka,
Assistant Professor,
Mother Theresa Post Graduate
& Research Institute of Health Sciences,
Indira Nagar,
Puducherry - 605 008.

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Respondents

[R-8 impleaded vide order dated 01.02.2023 made in W.M.P.No.2926 of 2023 in W.P.No.15068 of 2021]

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent in connection with the impugned order passed in No.5074/MTPG&RIHS/Estt/E1/2019/28 dated 13.01.2020 and quash the same and further direct the respondents 1-3 to appoint the persons who possess the Ph.D. qualification in so far as the appointment of Associate Professor in Nursing (Paediatrics) by following the norms prescribed by the Indian Nursing Council and the University Grants Commission.

For Petitioner : No Appearance



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For Respondent Nos.1 to 4: Mr.Ramaswamy Meyyappan

For Respondent No.5 : M/s.B.Deepak Narayanan

For Respondent No.6 : Mr.A.R.Nixom

For Respondent No.7 : M/s.J.Divya

For Respondent No.8 : M/s.V.Balamurugan

ORDER

The petitioner has filed this Writ Petition challenging the impugned order dated 13.01.2020 and quash the same and consequently direct the respondents 1 to 3 to appoint the persons, who possess the Ph.D. qualification for the post of Associate Professor in Nursing (Paediatrics) following the norms prescribed by the Indian Nursing Council and the University Grants Commission.

2. Heard Mr.Ramaswamy Meyyappan, learned counsel for the respondents 1 to 4, M/s.B.Deepak Narayanan, learned counsel for the 5th respondent, Mr.A.R.Nixom, learned counsel for the 6th respondent, M/s.J.Divya, learned counsel for the 7th respondent, M/s.V.Balamurugan, learned counsel for the 8th respondent, and perused the materials available on record.



3. There is no representation for the petitioner either in-person or through her counsel.

4. M/s.J.Divya and M/s.V.Balamurugan, learned counsels for the respondents 7 and 8 submitted that the petitioner has filed this Writ Petition by confusing the desirable qualification with the essential qualification. The petitioner has joined in service much later than the respondents 7 and 8 and hence she is rightly placed in Serial No.3 below the respondents 7 and 8.

5. As per Schedule XXVII of the Recruitment Rules for the post of Reader in Nursing in the third respondent, the essential qualification for the post of Reader in Nursing is as below:-

“Essential Qualifications:-

- (i) Master's Degree in specialized field of Nursing subject from a recognized university or its equivalent.*
- (ii) Registration with any of the State Nursing Council in India.*
- (iii) Five years teaching experience after Post Graduation.”*

6. The claim of the petitioner is that she has Ph.D. in addition to M.Sc. Nursing (Paediatrics) and she is the only candidate who possesses



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such a qualification and hence she alone needs to be considered for the post of Associate Professor / Reader in Nursing. The Rules would read that there should be essential qualification and if at all any one who got Ph.D. in Nursing from any recognised University that can only be a desirable qualification.

7. As per the above terms, the qualification shall not be misconstrued that Ph.D. also forms part of the essential qualification and all those candidates, who got M.Sc. (Nursing) without Ph.D. should be disqualified to be considered for the post of Reader in Nursing. So the petitioner has filed this petition with the same misconception about the essential qualification for the post of Reader in Nursing.

8. The impugned order has drawn the seniority list only on the basis of completion of qualifying the services rendered in the feeder cadre of Associate Professor in Nursing (Paediatrics). The petitioner had acquired the said qualification only on 27.10.2015 whereas the respondents 7 and 8 had completed their qualifying services as on 13.01.2015 itself. Hence they have rightly placed above the petitioner and the petitioner cannot claim that



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she has completed Ph.D. and she has to be given preference over the respondents 7 and 8 or she alone is the eligible candidate to be considered for the recruitment of Assistant Professor / Reader in Nursing. Since the petitioner has filed this petition without understanding the requirement of essential qualification, it is liable to be dismissed.

9. In the result, this Writ Petition is **dismissed**. No costs.
Consequently, connected Miscellaneous Petitions are closed.

22.11.2023

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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R.N.MANJULA, J.

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