



WP No.32775 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

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- 1.V.Pattabiraman
- 2.R.Pragatheeswaran
- 3.S.Gajalakshmi
- 4.K.Chitra
- 5.S.Manickajothi
- 6.R.Lavanya
- 7.V.Thamizharasan
- 8.M.Ramadevi
- 9.D.Durga Devi
- 10.A.Arulmozhi
- 11.A.Revathi
- 12.A.Drisharagavan

VS

... Petitioners

1. Union of India,
Represented by the Secretary to the Government,
Health & Family Department,
Nirman Bhavan,
New Delhi.



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2.The Secretary to Government,
Ministry of Health & Family Welfare,
Puducherry.

3.The Chief Secretary to Government-Cum-Chairperson,
Puducherry Health Society,
Chief Secretariat,
Puducherry.

4.The Secretary to Government,
(Health)-cum-Chairman,
State Health Mission,
Chief Secretariat,
Puducherry.

5.The Director,
State Health Mission,
Old Maternity Hospital Complex,
Puducherry.

6.The Director,
Directorate of Health and Family Welfare Services,
Puducherry.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari, to call for the records relating to the order dated 16.10.2023 in OA No.886 of 2023 passed by the Central Administrative Tribunal Chennai Bench and consequently direct the respondents to absorb the applicants on regular basis in the Department of health and Family Welfare Services as Staff Nurses on the basis of the Cabinet decision taken by the Government of Puducherry in February 2017.



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For the Petitioners :Mr.Gnanasekar

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For the Respondents :Mr.A.Prakash
Central Government Standing Counsel
for first respondent
Mr.Syed Mustafa,
Special Government Pleader,
for respondents 2 to 6

COMMON ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.*)

By consent of parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. Mr.A.Prakash, learned Central Government Standing Counsel takes notice for first respondent. Mr.Syed Mustafa, Special Government Pleader, takes notice for the respondents 2 to 6.

3. Challenging the order passed by the Central Administrative Tribunal Chennai Bench in OA No.886 of 2023 dated 16.10.2023, the petitioners have filed the present writ petition.



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4. Brief facts of the case:

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4.1. The petitioners were initially appointed in the Puducherry State Health Mission by the Selection Committee of the State Health Mission of Puducherry as Staff Nurses. All the petitioners have been continuously working on contract basis. The petitioners were neither granted the scale of pay nor granted any other allowance and benefits as admissible to Staff Nurses. While so, the Puducherry Health Mission Employees Association had filed an Original Application in OA No.815 of 2016 before the Central Administrative Tribunal to consider the representations made by the Association on 14.07.2015 and 16.03.2016 requesting for regularization of the services of the Staff Nurses who have put in more than ten years of service by creating regular posts. The Tribunal, by order dated, 13.04.2016 disposed of the said OA and directed the respondent authority to consider the said representations dated 14.07.2015 and 16.03.2016 and issue a speaking order within two months' time. Thereafter, the sixth respondent has passed an order on 19.07.2016 on the said representations dated 14.07.2015 and 16.03.2016 stating as follows: *'In consideration, a proposal to allocate certain percentage of direct recruitment vacancies arising in the*



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Department of Health and Family Welfare Services for being filled by absorption from among the qualified employees of the Mission, serving in comparable posts on contract basis is under the consideration of the Government. The order of the Government in this regard is awaited.'

4.2. The second petitioner had also filed an original application in OA No.321 of 2016 before the Central Administrative Tribunal seeking regularization of service from the date of his initial appointment. The Tribunal, by order dated 24.02.2017 had directed the respondent authority to consider the representation dated 04.06.2015 of the second petitioner within a period of two months. Thereafter, the sixth respondent has passed a similar order on 27.05.2016 like that of the order dated 19.07.2016.

4.3. Subsequently, the sixth respondent had issued a notification on 03.09.2017, calling for applications for recruitment to the post of Staff Nurses in the Department. The second petitioner had challenged the said notification before the Tribunal in OA No.1539 of 2017. The said OA is still pending.



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4.4. On the repeated representations of the Association, the Cabinet adopted a decision in February 2017, agreeing to absorb the members of the Puducherry Health Mission Employee Association to the extent of 33 % of vacancies suitably amending the RR to the post of Staff Nurses in the Department of Health and Family Welfare Services, Puducherry. However, the said regularization is pending with Government.

4.5. Subsequently, the sixth respondent had published selection list on 05.03.2019. Challenging the said selection list, the petitioners had filed an original application in OA No.406 of 2019 before the Tribunal with a prayer to absorb the petitioners on regular basis in the Department on the basis of the Cabinet Decision taken by the Government of Puducherry in February 2017. The Tribunal, by order dated, 25.03.2019, had passed an order as follows: *Since the original notification calling for application for the post of Staff Nurses by direct recruitment is already under challenge in OA No.1539/2017 filed by the second applicant herein, we are of the view that in order to avoid multiplicity of OAs seeking the same relief, the other applicants could be permitted to join in the relevant OA so that the matter*



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could be heard comprehensively at one go and separate replies by the respondents in separate OA filed by each applicant could be avoided. Accordingly, this OA is disposed of granting liberty to the applicants 1 to 20 except the second applicant to join in with the second applicant in the aforesaid OA for appropriate relief. The second applicant is also permitted to amend the relief sought therein keeping in view the issue of the impugned notification dated 05.03.2018 by the respondents. OA is disposed of at the admission stage. MA for joining together stands disposed of.

4.6. Pursuant to the above liberty granted by the Tribunal, the petitioner had filed MA No.742 of 2019 seeking to restrain the second respondent from making any appointment from the wait list published in the Notification dated 05.03.2019 during the pendency of OA No.1539 of 2017. The Tribunal, by order dated, 17.12.2019, directed the respondents not to operate the waiting list till reply is filed and allowed the said MA.

4.7. When the OA No.1539 of 2017 is pending, the sixth respondent had issued another notification dated 26.06.2023, calling for applications



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for direct recruitment. However, the website cannot be viewed in the recruitment portal and no application online could be made. Challenging the said notification, the petitioners had filed an original application in OA No.886 of 2023 seeking a direction to the respondents to absorb the petitioners on regular basis in the Department on the basis of the Cabinet Decision taken by the Government of Puducherry in February 2017. The Tribunal, by order dated, 06.10.2023, had admitted the said OA and directed the respondent authority to consider the applications of the petitioners and allow them to participate in the said selection process and their results shall be kept in sealed cover. Challenging the said interim order dated 06.10.2023, the petitioners have filed the present writ petition.

5. Learned counsel for the petitioners submits that the petitioners were appointed on contract basis and they have served in the Department for 18 years. The petitioners have also raised several grounds in the said OA No.886 of 2023 seeking for absorption on regular basis in the Department on the basis of the Cabinet Decision taken by the Government of Puducherry in February 2017 from the date of their initial appointment.



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While so, the Tribunal without considering the specific statement made by the petitioners that they are not eligible to participate in the said selection process, has granted an interim order in MA No.742 of 2019 in OA No.886 of 2023, permitting the petitioners to participate in the said selection process pending OA.No.1539 of 2017, which application is also filed by the petitioners seeking for absorption on regular basis in the Department on the basis of the Cabinet Decision taken by the Government of Puducherry in February 2017 from the date of their initial appointment. Hence, he prays for allowing the writ petition.

5. Heard the learned counsel for the petitioners and perused the materials available on record.

6. It is seen from the records that pending OA.No.1539 of 2017, the sixth respondent had published selection list on 05.03.2019. Challenging the said selection list, the petitioners had filed an original application in OA No.406 of 2019 and the same was disposed of by the Tribunal on 25.03.2019 with liberty to join with the second petitioner in OA No.1539 of



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2017, which is pending. Pursuant to the said direction, the petitioners had filed an application in MA No.742 of 2019 seeking to restrain the second respondent from making any appointment from the wait list published in the Notification dated 05.03.2019 during the pendency of OA No.1539 of 2017. The Tribunal had allowed the said application by order dated 17.12.2019. When so, the sixth respondent has issued another notification dated 26.06.2023 calling for applications from the eligible Indian Citizens who are natives/residents of the Union Territory of Puducherry for the recruitment of Nursing Officer in the Department of Health & Family Welfare Services, Puducherry in the Level 7 of Pay Matrix. Challenging the same, the petitioners had filed the instant OA No.886 of 2023 before the Tribunal seeking absorption on regular basis in the Department on the basis of the Cabinet decision taken by the Government of Puducherry in February 2017. Without considering all the above aspects, the Tribunal has granted interim order dated 06.10.2023 in the said OA, permitting the petitioners to participate in the said selection process as per the notification dated 26.06.2023.



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7. Considering the peculiar circumstances of the case, as the petitioners have already filed OA No.1539 of 2019 which is pending, in view of the urgency, it is a fit case to issue appropriate direction to the Tribunal to dispose of OA No. 886 of 2023 at the earliest.

8. The respondents also undertake to file counter in OA No.886 of 2023 within a period of three weeks.

9. In view of the above, we direct the Tribunal to consider and dispose of OA No.886 of 2023 on merits, as expeditiously as possible, within a period of four months from the date of receipt of a copy of this order.

10. With the above directions, the writ petition stands disposed of. There will be no order as to costs. Consequently, WMP Nos.32398, 32399 and 32400 are closed.

[D.K.K., J.] [P.D.B., J.]
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Index : Yes/No
Neutral Citation : Yes/No
mrn



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