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W.P.Nos.40302 and 40303 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2024

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THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.Nos.40302 and 40303 of 2015

and

M.P.No.2, 2, 3 and 3 of 2015

D.Baby ... Petitioner in W.P.No.40302 of 2015

C.Susheela Rani ... Petitioner in W.P.No.40303 of 2015

Vs.

1. The State of Tamil Nadu,
Represented by its Secretary to Government,
Health & Family Welfare Department,
Secretariat, Chennai – 600 009.
 2. The Secretary,
The Tamil Nadu Public Service Commission,
O/o the Tamil Nadu Public Service Commission,
Chennai – 3.
 3. The Director of Public Health & Preventive Medicine,
O/o the Director of Public Health & Preventive Medicine,
Chennai – 6.
 4. The Deputy Director of Health Services,
O/o the Deputy Director of Health Services,
Thatco Building, Villupuram,
Villupuram District.
- ... Respondents in both WPs



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the notification issued by the 2nd respondent vide notification no.11/2015 dated 31.07.2015 and quash the same as illegal and consequently to direct the respondents 1 and 3 to consider the petitioner for promotion to the post of 'Maternal & Child Health Officer (Public Health Nurse) in conformity with Section 3 of the Ad-Hoc Rules issued by the first respondent in G.O (Ms) No.861, Health and Family Welfare Department, dated 24.11.1994.

In Both Writ Petitions

For Petitioner	: Mr.B.Vishnu Chelliya
For R1, R3 & R4	: Mr.K.Tippu Sultan, Government Advocate
For R2	: Mr.R.Bharanidharan, Standing Counsel for TNPSC

COMMON ORDER

These writ petitions are filed challenging the Notification No.11 of 2015, dated 31.07.2015 issued by the respondent/ Tamil Nadu Public Service Commission, proposing to fill up the post of 'Maternal and Child Health Officer (Public Health Nurse)' by way of direct recruitment on the ground that direct recruitment can only be resorted to in the event of non-availability of the eligible candidates in the feeder category to the post of 'Maternal and Child Health Officer (Public Health Nurse)', but the respondents without



exhausting the same, have directly resorted to fill up the said post by way of direct recruitment.

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2. In response to the contentions raised in the affidavit, counter-affidavit has been filed by the Respondent No.4, stating that the petitioners herein have not acquired the requisite qualifications, viz., 22-month Diploma course in Public Health Nursing awarded by the Director of Public Health and Preventive Medicine, as required under the relevant Rules and therefore, the question of petitioners being considered for appointment to the said post does not arise.

3. As seen from the affidavit filed in support of the writ petition, it is an admitted fact that the petitioners have not acquired the requisite qualification of 22-month Diploma course in Public Health Nursing, as required under the relevant Rules, and therefore, the question of considering the claim of the petitioners for being appointed to the said post does not arise. Hence, the petitioners cannot be said to be the persons eligible for being considered by way of 'appointment by transfer' to the post of 'Maternal and Child Health Officer (Public Health Nurse)'.



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4. Further, it is also brought to the notice of this court by learned counsel for the petitioner that the Madurai Bench of this court, under similar circumstances, passed an order dated 15.02.2023 in W.P (MD) Nos.20470 to 20476 of 2015 and batch, directing relaxation of Rules, as a one-time measure to enable the petitioners therein for being appointed to the said post of 'Maternal and Child Health Officer (Public Health Nurse)' by way of 'recruitment by transfer' by taking into consideration the fact that the petitioners therein did not undergoing 22-month Diploma course in Public Health Nursing, but, the petitioners therein cannot be found fault for the mistake committed by the Respondent No.2 in not sending them for acquiring such Diploma. The petitioners in the said writ petition were in service as on the date of disposal of the said writ petition, the petitioner already retired from service as early as on 20.11.2024. Therefore, an identical relief as was granted by the Madurai Bench of this Court cannot be granted in favour of the petitioners, as they are no more in service. Further, it is also brought to the notice of this court that the entire recruitment process pursuant to the impugned notification has already been over long back and none of the persons appointed pursuant to such recruitment and made parties to their writ



petition.

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5. In the light of the above, the main relief sought in the present writ petitions have practically become infructuous.

6. Then, coming to the consequential relief is concerned, in view of the fact that the petitioners have already attained the age of superannuation and retired from service, the consequential relief also cannot be granted.

7. In view of the same, the writ petitions are dismissed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

11.12.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary to Government of Tamil Nadu,
Health & Family Welfare Department,
Secretariat, Chennai – 600 009.

2. The Secretary, The Tamil Nadu Public Service Commission,



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O/o the Tamil Nadu Public Service Commission, Chennai – 3.

3. The Director of Public Health & Preventive Medicine,

O/o the Director of Public Health & Preventive Medicine, Chennai – 6.

4. The Deputy Director of Health Services,

O/o the Deputy Director of Health Services,

Thatco Building, Villupuram, Villupuram District.



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